

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant Thereof,  
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-  
ITED, an Hawaiian Corporation, Owner of the Steamers  
"HELENE," "MIKAHALA," "LIKELIKE," and  
"MAUNA KEA," for Itself, the Officers and Crews of  
Said Steamers and Other Servants of Said Owners,  
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant, Thereof,  
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,  
Appellee.

and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant Thereof,  
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vs.

MATSON NAVIGATION COMPANY, a California Corpora-  
tion, Owner of the Tug "INTREPID," for Itself and the  
Officers and Crew of Said Tug,  
Appellee.

VOLUME VI.  
(Pages 2081 to 2496, Inclusive.)

Upon Appeals from the United States District Court  
for the Territory of Hawaii.



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(Testimony of George E. Piltz.)

Q. Captain, how did you see the churning of the water and the stern of the "Helene" and the "Likelike" that night when you were on the "Celtic Chief" when the lights of the "Arcona" were on the masts of the "Celtic Chief"? How did you look that way and see the churning of the water?

A. I didn't see any water from the ship's deck. It was only when I crossed over the port side of the "Celtic Chief" that I noticed and saw the waters churning.

Q. It was a dark night, wasn't it?

A. It wasn't so dark that you couldn't see the churning of the water. [2276½—1445]

Q. Was it starlight or cloudy?

A. What night is this—Wednesday night?

Q. Wednesday night, while you were on the "Celtic Chief."

A. Well, it was—the lights would rise from the different vessels in the distance, would reflect on the water and show.

Q. Well, now, wasn't it a dark night that night?

A. Well, I don't remember whether it was a cloudy night or a starlight night or a starless night.

Q. Wasn't the "Helene" five hundred feet away from the "Celtic Chief"? At least five or six hundred feet? A. Yes, something like that.

Q. Wasn't the "Likelike" five or six hundred feet away? A. Something like that.

Q. Do you mean that on a dark night you could look up toward the stern of the "Likelike" and see the turning of the propeller? A. Yes.

Q. How would you get any light to see that?

A. I saw the water.

(Testimony of George E. Piltz.)

Q. See the churning of the water at the stern?

A. It would be the light of the vessel would reflect towards you and you could see between you and them.

Q. Where would the light come from?

A. Well, it would be the deck lights of the ship.

Q. Deck lights of the "Helene" and "Likelike"?

A. "*Likelike*" and "Likelike."

Q. Do you mean to say that you can look six hundred feet away and see churning of the propeller of the vessel by the lights of the vessel? A. Yes.

Q. Under ordinary conditions at sea, do you mean you could see that without any special conditions?

A. I could see that that night.

Q. And you saw it that night? A. Yes, sir.

Q. Did you see the second red light on the mast of the "Celtic Chief" taken down when you were there? [2277—1446] A. No, sir.

Q. Was it up when you left the "Celtic Chief" to go aboard the "Mikahala"? A. Yes, sir.

Q. And was it there all the time up to the time the "Celtic Chief" came off? A. Yes, sir.

Q. Were you looking toward and at the "Celtic Chief" all the time after you reached the "Mikahala"? A. Beg pardon?

Q. Were you looking at the "Celtic Chief" all the time after you reached the "Mikahala," paying attention to her?

A. No, not all of the time. Most of the time I think I was tending to lines and obeying orders that were given by the master of the "Mikahala."

Q. Are you willing to say that that light was there all of the time until the "Celtic Chief" came off?

A. Yes.

(Testimony of George E. Piltz.)

Q. Didn't you see any red light being hauled up?

A. I don't remember.

Q. Are you willing to say it was not so? I withdraw the last question. Are you willing to say that there was not at some time, after you got aboard of the "Mikahala," having left the "Celtic Chief," only one red light up in the rigging of the "Celtic Chief"?

A. Every time I noticed any lights or used to glance that way there was two lights on the "Celtic Chief." I'm absolutely sure of that statement.

Q. Did you see any other signals like rockets from the "Celtic Chief" that night?

A. I did see a green star, I think, being fired.

Q. And what time of night did you see that?

A. A little after twelve.

Q. Little after twelve? How long was that before the "Celtic Chief" came off?

A. I don't remember exactly what time it was, but it was shortly before she came off. [2278—1447]

Q. Wasn't it just at the instant that she came off, just about the time that she came off you saw this?

A. Well, I remember seeing two rockets fired; that is, two different times.

Q. How far apart were they?

A. Well, I don't remember exactly, but I judge about five or ten minutes apart or five or eight minutes apart.

Q. Did you see a red light hauled up the rigging then? A. I did not notice.

Q. What do you know about those rockets? What were their meaning?

(Testimony of George E. Piltz.)

A. I was made to understand that one green rocket was to mean the vessel moved.

Mr. OLSON.—Now, just a minute. I object to this unless it appears that the witness knows of his own knowledge.

Q. Do you know their meaning? A. Yes.

Q. Where did you get that information?

A. I got it from the captain of the "Mikahala."

Mr. OLSON.—I object to the captain testifying on that point on the ground it is hearsay.

Q. Captain, I'll ask another question. See if we can get rid of this argument. Do you know for whom these signals were intended or meant?

A. They were intended for the different vessels of the Inter-Island.

Mr. OLSON.—The rockets were?

A. Yes, sir.

Mr. WEAVER.—What were they—answer the question. What were they intended for? What did those signals mean?

A. Well, the one green rocket was to mean the ship moves and two green rockets was to mean that the vessel is afloat, take care of your hawsers, or look out for your hawsers; just the same.

Q. And was there a third?

A. I don't remember seeing a third signal.

Q. Wasn't there—were there not three signals?

[2279—1448] A. I only remember of two.

Q. Who was to give these signals?

A. They were to be given aboard the "Celtic Chief."

Q. By whom? By what person?

A. I don't know by whom.

(Testimony of George E. Piltz.)

Q. Didn't these signals, the green lights, go off together all at one time then the vessel came right off?

A. Well, they give—they went off rather,—they went off pretty close together. I don't know how far between the different lights.

Q. Then did the "Celtic Chief" come right off toward you? A. Beg pardon?

Q. Then did the "Celtic Chief" come right off toward you? A. Yes.

Q. Shortly after? A. After the second.

Q. Now, then, did these lights have anything to do with the pulling signals for pulling?

A. I don't know. I can't answer that question.

Q. You don't know of any signal light which meant begin pulling or anything like that except the red light? A. The red light, that's all.

Q. Could you see the lines of the "Arcona" going aboard of the "Celtic Chief" at the time she came off just before this? Couldn't see by the search-light?

A. No, sir.

Q. Could you see the "Celtic Chief," the "Arcona's" start where you were at the time the "Celtic Chief" came off? A. Yes.

Q. You could see the churning of the water astern, could you? A. I could.

Q. If it had been churning? A. Yes.

Q. Well, the "Celtic Chief" pulling by her propeller at that time? A. The "Arcona," you mean?

Q. The "Arcona" pulling by her propeller at that time.

A. I did not notice the "Arcona" used her engines at any time. [2280—1449]

Q. Can you say that she did not?



(Testimony of George E. Piltz.)

A. I would have noticed if she had.

Q. Then she was not turning her propeller at any time from the time you went aboard the "Mikahala" from the "Celtic Chief" on the morning of Wednesday?

A. Yes.

Q. Could you see the lines running toward the "Celtic Chief"?

A. No, I couldn't see any lines.

Q. Wasn't light enough? A. No, sir.

Q. Was there light enough to see a line running straight from the "Arcona" to the "Celtic Chief" out of the water, if it were out of the water?

A. What's that question?

(Question read.)

A. Well, I don't think so because I wouldn't have seen it.

Q. There wasn't enough light? A. No.

Q. Then you mean to say that you could not have seen a hawser running from the "Arcona" to the "Celtic Chief" and pulled taut by the "Arcona" if there was one there?

A. Because I would not have been able to see it because our distance was increased by being away.

Q. While you were on the "Celtic Chief," did you observe any line from the "Celtic Chief" to the "Arcona"?

Mr. OLSON.—I object to the question on the ground that it is not proper cross-examination by counsel for the Miller Salvage Co.

My objection, to go into detail, is that it is not proper cross-examination by the counsel for the Miller Salvage Co. for this reason, that it is an attempt to further confirm and support the testimony

(Testimony of George E. Piltz.)

of Captain Piltz on direct which tended to show that the "Arcona" did nothing in connection with the salvage of the "Celtic Chief."

The COURT.—On the statement of counsel then the question is withdrawn. [2281—1450]

Wednesday, September 20, 1911.

[**Testimony of J. M. Dowsett, for Libelants.**]

Direct examination of J. M. DOWSETT, a witness called on behalf of libellants Inter-Island Steam Navigation and Matson Navigation Co. and sworn.

Mr. WARREN.—Q. You reside in Honolulu, Mr. Dowsett? A. I do.

Q. Did you, in December of 1909, have occasion to know any operations in connection with the "Celtic Chief" which was ashore at that time? A. I did.

Q. What was the first instance of your making any observations in regard to the "Celtic Chief"?

A. The first instance was the morning after she went ashore, looking out here from the shore here—I think it was a Monday morning.

Q. Did you go out?

A. No, not till I went out on Wednesday for the first time.

Q. Tell about that.

A. Wednesday afternoon, in company with Mr. J. A. Kennedy, President of the Inter-Island, I went down to the wharf and we had a sampan, not being able to secure the services of any of the launches of Young Bros., and went out to the ship to see what was doing.

Q. Did you go on board? A. I did.

Q. Having gone on board, did you make any ob-

(Testimony of J. M. Dowsett.)

servations as to any operations in connection with the "Arcona" or the placing of any line from the "Arcona" on board the "Celtic Chief"?

A. I did.

Q. Will you state what you noticed about that?

A. Well, when we got aboard they were at work, there was an officer or two of the ship "Arcona" and a boat's crew of men, [2282—1451] aboard heaving on a steel hawser which would be well out from the "Arcona" and they had what they call a messenger line attached to this hawser, trying to heave this hawser aboard. They were about to heave it when we got aboard. They had been previously discharging, trying to save the fertilizer that was in evidence on the deck, and these men from the "Arcona" were at work with the steam winch that had been used for discharging freight as I remember it, and tried to heave their line aboard with this steam winch.

Q. With what success?

A. Well, no success at all.

Q. What happened?

A. They broke the line. They broke the messenger line by trying to drag a heavy cable on the bottom.

Mr. OLSON.—I move to strike on the ground it is not responsive to the question; furthermore—

The COURT.—Motion granted.

Mr. WARREN.—Not as to the whole answer.

The COURT.—As to why they were not able to get it aboard.

Q. You say they did not get it aboard?

A. They did not get it aboard. Made two or three attempts while we were there. It was so laughable that I left.



(Testimony of J. M. Dowsett.)

Mr. OLSON.—Move to strike on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—Motion granted.

Mr. WARREN.—About how long did you remain on board that evening?

A. I should say the best part of an hour; from three-quarters to an hour to be accurate.

Q. Then you returned to Honolulu?

A. Then I returned ashore; yes.

Q. Did you go out again to the vicinity of the operations? A. I did.

Q. When?

A. That evening; same evening; Wednesday evening. [2283—1452]

Q. About what time did you get out and where did you go?

A. Where did I go? I went to the ship, to the “Mikahala.”

Q. About what time did you get there?

A. Well, I left my house about half-past eight—I should judge we left a few minutes of nine. I guess we left the wharf approximately about nine o'clock. It must have been shortly after nine that we arrived on the “Mikahala.”

Q. Having arrived on board, did you make any observation as to the position of the “Arcona,” at that time? A. I certainly did.

Q. What was the position of the “Arcona” at the time you arrived out there Wednesday night? I mean to say with respect to the position of the “Mikahala.”

A. Well, they were lying side by side, somewhat in different directions, both leading from the same

(Testimony of J. M. Dowsett.)

center, the "Mikahala" being on the northward or shore side of the "Arcona" and to the stern of her.

Q. How far astern of her?

A. I should say, I should judge—oh, it would be pretty hard to tell. Maybe within a yard or few yards. That is to say, to put myself on the "Mikahala's" bow, if they had been hauling on the same line, would have been probably astern of the "Arcona's" stern.

Q. You say within a yard or yards? A. Yes.

Q. About how far was the "Arcona" from the "Mikahala"?

A. Sixty or seventy yards, I should judge, roughly.

Q. Did you take any note of any line running from the "Arcona" to the "Celtic Chief"? A. I did.

Q. What did you observe with respect to lines?

A. On the what? On the "Celtic Chief"?

Q. The "Arcona."

A. Two steel lines running from her stern were plainly seen owing to the fact she had a—

Q. About how much of those lines were visible near the stern of the "Arcona"?

A. You mean what length of line [2284—1453] was visible?

Q. Yes.

A. You give me the height of the "Arcona's" deck from the water. I could give you the approximate height.

Q. Well, I'll change the form of the question. About how far from the stern of the "Celtic Chief," or the "Arcona," was the bow where the "Arcona's" lines entered the water?

Mr. OLSON.—Object to the question on the

(Testimony of J. M. Dowsett.)

ground that it assumes something that has not been placed in the testimony by this witness.

Q. State whether or not, Mr. Dowsett, what you observed as to the "Arcona's" lines with respect to the water.      A. What did I observe?

Q. Yes, as to the "Arcona's" lines with respect to the water.

A. Well, to put it as plainly as I can, they were running from the stern of the boat from the top of her poop deck in a loose and slack bight.

Q. Could you at that time see the other ends of the "Arcona" lines at the "Celtic Chief"?

A. No, I could not.

Mr. OLSON.—What?

A. I could not. It was impossible to see those.

Q. Did you make any other observations after that during the evening as to the position of the "Arcona's" lines at her stern?

A. Yes, they were—they never changed their condition from first to last as far as my observation went.

Q. Now, how long did you continue to make those observations after going on board the "Mikahala"?

A. Do you want me to describe?

Q. Tell us what you did.      A. What I did?

Q. Yes.

A. I went aboard the "Mikahala" about from nine to quarter past nine—say between nine and half-past. I suppose I stayed around there and walked [2285—1454] around the deck of the vessel, watching the "Arcona's" operations, if not on board the ship, the operations on board the "Celtic Chief," and

(Testimony of J. M. Dowsett.)

that was what we were doing ourselves for probably an hour.

Q. Now, during that time, did you notice anything as to conditions on board the "Arcona"?

A. I couldn't notice anything because there was nothing doing; there was a deathlike stillness on board there.

Q. No persons visible?

A. We could see her quartermaster on the after part of the deck. I did see him once, as I remember.

Q. How about lights?

A. Oh, lights aboard the ship.

Q. But would you see at night when these anchorage lights—she probably had her lights up, signal lights for warning; stern lights or light ahead. Other than that you'd see a light here or there on the vessel. At the end of that hour that you've mentioned, what did you do?

A. Went to lie down try to get a cat-nap for an hour.

Q. Before lying down, did you make any observations as to the position of the "Celtic Chief"?

A. I did.

Q. Take any bearings?

A. All over—particularly went astern of the "Mikahala" and took several bearings with some shore lights, fixed lights, and during the course of the hour that I was up, the first hour, I would go back every few minutes to see whether there was any particular change in these bearings. Up to the time I went to bed there was none.

Q. How long did you remain in bed?

(Testimony of J. M. Dowsett.)

A. I said I went to bed. I lay down with clothes on. We lay down probably for maybe three-quarters of an hour—hour or three-quarters.

Q. Then what happened?

A. I heard voices. The crew were making a noise—I couldn't sleep—loading this fertilizer from the "Celtic Chief" on the port side of the "Mikahala" on which I had my room, on which side my room was. I heard remarks made [2286—1455] by the crew, talking going on, and believing there was something doing, I got up, walked out on the deck, took a look at one of these bearings. Just then Mr. Kennedy came along and called my attention to the fact the vessel was more buoyant, the "Celtic Chief" was moving, or words to that effect. I very carefully observed these bearings again and found there was an appreciable change.

Q. Could you observe any movement on the part of the ship by looking directly at her?

A. You could see she was stirring from side to side, rolling in her bed. She was almost right in the afternoon and early evening and commenced to show signs of buoyancy because they got along with the lightering.

Mr. OLSON.—Move to strike that last sentence.

Mr. WARREN.—I join in the motion.

The COURT.—It is stricken.

Q. Endeavor to confine yourself, Mr. Dowsett, to what was said and done at the time. Did you, on going up, remark any observation as to the position of the "Arcona" then? A. Well, she—

Q. And if so, what were they?



(Testimony of J. M. Dowsett.)

A. I couldn't see any appreciable change in the position at that time at that minute when I got up first.

Q. Did you make observation?

A. I didn't think to note it; didn't seem necessary to do so.

Q. Did you notice the position of the "Arcona" on getting up? A. Yes, sir.

Q. There was, you say, no appreciable change?

A. I couldn't say. Do you mean if there was any change between us and them as to position? She appeared to be in the same position.

Q. Did you notice her lines at her stern?

A. Yes, I did. [2287—1456]

Q. What was their position then?

A. Unchanged from what they were.

Q. Did you, from that time on, make any further observations or take any notice of the stern lines of the "Arcona"?

A. I never kept my eyes off of it after I got up the second time. I kept my eyes fixed on the "Arcona" and the "Celtic Chief" from the deck of the "Mikahala" watching operations on the "Mikahala."

Q. What was the result of those observations? What did you notice as to those lines?

A. They never changed. There was no change whatever.

Q. Up to?

A. Up to the time the vessel came off.

Q. What about the lines of the "Mikahala" to the "Celtic Chief"? Did you notice those? A. Yes.

Q. What about them, their condition?

(Testimony of J. M. Dowsett.)

A. Two big manilla hawsers; they were as taut, I guess, as the steamer had power to make them.

Mr. OLSON.—I move to strike, if the Court please, on the ground it is a conclusion of the witness?

A. Well, they were taut, that's all.

Mr. OLSON.—I wish to have the statement of the witness stricken that they were as taut as the steamer could make them.

Mr. WARREN.—No objection.

The COURT.—The motion is granted.

Q. In saying they were taut, what did you mean?

A. A heavy manilla line stretched at the distance that they were from the "Celtic Chief" to the "Mikahala" naturally had a sag to them and as the swell, of course, run in sort of broadside on to her, why these lines would rise and fall on top of the water.

Q. How were they facing the "Mikahala," where?

A. They were facing one or other side of her with a sort of bridle arrangement at the stern of the "Mikahala," aft amidships through [2288—1457] hawser holes, as I remember, port and starboard lines.

Q. How many lines altogether from the "Mikahala" to the "Celtic Chief"? A. Two lines.

Q. That is, two lines including the two lines and the bridle?

A. The bridle is some sort of arrangement to keep the strain even on both lines and to keep the lines a proper distance apart from each other as they leave the steamer.

Q. How far astern of the "Mikahala" did the lines of the bridle come together?

(Testimony of J. M. Dowsett.)

A. A few feet, not very far from that point on to the "Celtic Chief."

Q. How many lines were there to the "Mikahala"?

A. Only two as far as I know. Only two that I could see.

Q. How far did those two extend?

A. How far did they extend? What do you mean, the length of them?

Q. Yes, I mean between the two points.

A. I don't quite gather the question.

Q. You said that this bridle—I want to know how many hawsers in all there were between the "Celtic Chief" and the "Mikahala" including the bridle. How many lines from the "Mikahala" to the "Celtic Chief"? A. Two, as far as I know.

Q. And where was the second hawser fastened? The one that was on—

Mr. OLSON.—I object to counsel saying anything about any hawser.

The COURT.—Objection is sustained.

Mr. WARREN.—I respectfully ask the Court to allow me to finish my question. I submit it's my right to finish my question. Now, Mr. Dowsett, you said one line was run with a bridle.

Mr. OLSON.—I object to the question on the ground that the witness has said nothing of the sort; that it incorrectly [2289—1458] states the testimony of the witness and there is nothing in the record from the testimony of this witness stating anything of the sort.

Mr. WARREN.—Withdraw the question. Mr. Dowsett, apart from any bridle arrangement, how



(Testimony of J. M. Dowsett.)

many lines were there from the "Mikahala" to the "Celtic Chief"?

A. To the best of my belief and knowledge there were two lines.

Q. How were they attached to the "Celtic Chief"? Take first one line and then the other line and tell us how they were attached to the "Mikahala."

A. To the "Mikahala," they ran in, we'll say, as I remember it, one ran in on the port side and one ran in on the starboard side through a hawser hole and made fast on the deck. These two lines as I remember it.

Q. Now, about how high above the water was it at the "Mikahala" where these lines were made fast to the "Mikahala"?

A. Well, they came in, coming in on her deck on the line of her deck at the hawser hole. It couldn't be more than a few feet.

Q. A few feet above what?

A. Above water, above her water-line. In other words, the "Mikahala" isn't very high above the water.

Q. Now, what was the condition of the "Mikahala" lines after you got up?

Mr. OLSON.—I object to the question on the ground that it has already been asked and answered.

The COURT.—I don't think so; the objection is overruled.

A. The condition as to their being taut?

Q. As to their position? What was their position?

A. Their position from the side of the "Mikahala"

(Testimony of J. M. Dowsett.)

was in almost as direct a line as they could be allowing for a sag for the distance to the "Celtic Chief." Just when we went aboard the "Celtic Chief," of course, I can't tell. I couldn't tell at that time at least. [2290—1459]

Q. Now, when did you first know any seaward movement of the "Celtic Chief"?

A. Seaward movement?

Q. Yes, sign of her coming off?

A. Well, as I say, after I got up and went back and put my shoes on, I felt a motion and took these bearings that I had taken an hour or so previously and noticed appreciable change in so far as the position of the "Mikahala."

Q. How frequently after that did you make observation?

A. Continuously, right along. I hardly did anything else. Every few minutes I'd go back; kept looking from this one point of vantage that I had on the "Mikahala."

Q. Can you say how much of a movement that was on the part of the "Celtic Chief"?

A. Well, of course—

Q. How far?

A. Corresponding to this change of the position of the fixed lights of observation that I had ashore. Of course, I couldn't compute that change.

Q. Now, when that movement began how long did it continue?

A. At intervals. The motion would be at intervals. There'd be a little motion then a few minutes would elapse and we'd see another motion. It

(Testimony of J. M. Dowsett.)

wasn't continuous. It was sort of spasmodic.

Q. And how long was it before she began her final moving off? A. After I got up?

Q. The movement which concluded that coming off?

A. Oh, I suppose it was. Well, I think it must have been half an hour or three-quarters of an hour.

Q. About what time did she finally come off?

A. About what time? It was after midnight sometimes.

Q. Give it as near as you can. A. How's that?

Q. Give it as near as you can.

A. Well, it's two years nearly since it happened. I didn't make any observation. I should judge it was, must have been [2291—1460] after twelve; say a few minutes after twelve o'clock, after midnight. I don't know just when it was. Saw fifteen minutes.

Q. Describe the movement of the "Celtic Chief" in coming off the reef. What direction and how far did she move?

A. Do you mean when she came entirely off?

Q. When she came entirely off what direction did she move?

A. She was pointing, as I remember, her stern lying as she was on the reef. She was pointing almost in the direction of the German man-of-war.

Q. And in what direction did she move?

A. And she continued to move in that direction after she came off and did until our lines commenced to swing her around and to the northward of the German ship.

(Testimony of J. M. Dowsett.)

Q. When *she* that moving begin, that side moving?  
A. That what?

Q. That side moving.

A. The whole thing happened so quickly that when we saw she was afloat the "Mikahala's" course was changed to the northward. I should judge she must have been within a ship's length of the German man-of-war by the time she commenced to turn because she commenced to move out.

Q. How near did she approach the "Arcona"?

A. Well, she was right on top of her almost.

Q. Give us the distance as near as you can.

A. Well, it's pretty hard to say, looking from the position we were in, but I should say she was within fifteen or twenty yards from the stern of the vessel at one time. That is her stern, mind you.

Q. You say the "Mikahala" was off toward the east?  
A. Towards the north.

Q. Can you say whether or not the gap closed between the "Arcona" and the "Celtic Chief"?

A. Well, no, I couldn't say [2292—1461] that definitely because she came off so suddenly towards us and towards the German man-of-war, she was coming so quickly after she got started that I couldn't say whether or not she closed the gap entirely or not from my own observation, but she finally shut the "Arcona" entirely from our view.

Q. She what?

A. She shut the "Arcona," she came right between us.

Q. Was that before or after the "Arcona" started out?

(Testimony of J. M. Dowsett.)

A. The "Arcona" must have been going otherwise she would have collided. She must have been going.

Q. What was the first movement that you noticed on the part of the "Arcona"?

A. After I got up? Do you mean after I got up?

Q. At any time after you got up?

A. After I had been up for a while, as I say—

Q. No, I'm talking about the movement of the vessel itself. A. The movement off what way?

Q. Of the "Arcona" in the way of going out?

A. Oh, the first movement she made was this one, when the "Celtic Chief" got off when she started right out to sea and took the position. That was the movement I could see, she went out to sea with the "Celtic Chief" in tow.

Q. Did you notice the searchlight of the "Arcona"? A. I did.

Q. About what time did that come on?

A. Well, I should judge it was. I went to bed, say, about ten o'clock. Eleven o'clock. It was after eleven o'clock sometime. It couldn't have been before.

Q. How do you know that?

A. From the time I went to bed to the time I got up it didn't come on until after I had got up and been up on the deck.

Mr. WARREN.—Cross-examine. [2293—1462]

Cross-examination of J. M. DOWSETT on Behalf of  
Libellee.

Mr. OLSON.—Q. What is your business, Mr. Dowsett? A. Sugar broker and insurance agent.

Q. You are familiar with the Inter-Island Steam



(Testimony of J. M. Dowsett.)

Navigation Co.?      A. I am.

Q. Have you any connection with that company?

A. I am a director of it.

Q. How long have you been a director of that company?      A. Ten years, I believe.

Q. Ten years?

A. Thereabouts. Must be about that.

Q. You were director of the Inter-Island Steam Navigation Co. at the time the "Celtic Chief" was on the reef in 1909?      A. I was.

Q. Are you a stockholder in that company?

A. I am.

Q. Do you hold a considerable part of the stock of that company?

A. I don't know what you mean by considerable. I don't control.

Q. No, but you hold a large block of the stock?

A. I don't know that you'd call it a large block. I represent stock as well as own it myself.

Q. What other stockholders do you represent?

A. Various relations.

Q. Altogether how much stock including your own and the stock of parties that you represent how much of the stock of the Inter-Island Steam Navigation Co. do you represent?

A. A couple of thousand shares.

Q. And how many shares are there altogether in the company?      A. There would be 22,250 shares.

Q. 22,500?      A. 22,500.

Q. You own and represent then about one-tenth of the capital [2294—1463] stock of the company?      A. I presume so.

(Testimony of J. M. Dowsett.)

Q. Just about that?

A. Somewhere around there.

Q. And you did at the time the "Celtic Chief" went on the reef? A. I don't think I had as much.

Q. Very much less? A. Approximately.

Q. About the same? A. Yes.

Q. When did you go out to the "Celtic Chief" on Wednesday, the first time? A. In the evening.

Q. About what time?

A. Oh, I should judge between two and three o'clock. Two or half-past two.

Q. What did you do? Did you leave the waterfront between two and half-past two? You arrived at the "Celtic Chief" about what time?

A. We were only out about ten minutes.

Q. Now, from half-past two until half-past three, I take it, you were at the "Celtic Chief" and then departed?

A. Well, I say I'm not exactly sure but I was there about an hour and I should say between two and four.

Q. An hour between those two hours?

A. Between those two.

Q. Now, who was with you when you went out there at that time?

A. Mr. Kennedy, and I, I think, were the only occupants of the boat although I'm not certain.

Q. Mr. Kennedy, of course, observed the attempt of the "Arcona" to get this large wire line aboard the "Celtic Chief," which you say failed?

A. I don't know whether he did or not.

Q. He must have seen it?

(Testimony of J. M. Dowsett.)

A. That would be a conclusion.

Q. He was with you all the time?

A. Not necessarily.

Q. He was on the "Celtic Chief"?

A. He was on the "Celtic Chief."

Q. Around the deck?

A. He had to be on the deck. [2295—1464]

Q. Did you talk to him much during the time you were on the deck?

A. I spoke to him, I think, about the matter of their discharging or unloading this fertilizer in the boats.

Q. Aren't you pretty sure, Mr. Dowsett, that Mr. Kennedy must have observed, to some extent, at any rate, the attempt that the "Arcona" made?

A. He couldn't have helped but see it.

Q. He must have seen it?

A. Anybody that had eyes must have seen it.

Q. And Mr. Kennedy saw it? In other words, he couldn't be around the deck very well without seeing it, if his eyes were open?

Mr. WARREN.—I object. That's an assumption as to whether or not this witness knows Mr. Kennedy knows.

Mr. OLSON.—Answer the question, Mr. Dowsett.

A. I'd like to have the question again.

(Question read.)

A. You mean to say the operation of trying to get this cable aboard.

Q. This attempt that the "Arcona" made to get this cable aboard the "Celtic Chief"?

A. I don't think he could have failed to have observed both what was going on on the vessel, on the



(Testimony of J. M. Dowsett.)

poop of the vessel where these operations were, as well as on the main deck of the vessel where Mr. Kennedy spent most of his time.

Q. Mr. Kennedy is the president—

A. I was giving more attention to the work of the cable. It interested me more to see that than the work of discharging fertilizer.

Q. Well, now, isn't it the fact that Mr. Kennedy is the president—

A. He is and was at that time.

Q. Mr. Kennedy must have taken one or two promenades around the "Celtic Chief" deck and poop deck during the time that you were on there, as far as you observed? [2296—1465]

A. I can't say whether he did or not, Mr. Olson. He was around the main deck and the poop deck almost, well, different times.

Q. Are you willing to say, Mr. Dowsett, that he was not on the poop deck during that hour?

A. I am not willing to say that he was aft.

Q. Where did you come aboard the "Celtic Chief" when you came over?

A. Came aboard on the leeward or port side.

Q. Port side of the "Celtic Chief"? A. Yes.

Q. And you came from the harbor out there in a sampan? A. Yes.

Q. Did you observe the attempt that the "Arcona" made to get a line aboard the "Celtic Chief" while you were approaching the "Celtic Chief"?

A. No, sir.

Q. They were not doing that?

A. They were aboard but they had not started operations until after we got aboard.

(Testimony of J. M. Dowsett.)

Q. About when? A. I don't propose to say.

Q. Let's have your best judgment.

A. One of their boats was alongside. There was an executive officer and a lot of men on the deck of the "Celtic Chief" and they were heaving on lines there or taking out lines. They had just brought a line, if I remember right, one of those messenger lines, and they were going, they were making it fast to the steam winch of the "Celtic Chief."

Q. Isn't it a fact that that was easily observed by you?

A. I don't know which they got aboard or what they were doing.

Q. You say that they were doing something there?

A. The operations on the vessel were on the star-board side, so as we got aboard and went around we saw men in a board, as far as I know a steam launch going back and forward from the steamer to the "Celtic Chief."

Q. Now, then, just how long, as far as you can remember—I want [2297—1466] your best judgment—after you got aboard the "Celtic Chief," was it before they actually started to try to heave in on this messenger line and attempted to get this steel hawser aboard?

A. It may have been ten minutes or may have been twenty minutes or may have been half an hour. I wasn't paying strict attention to it. I was aboard looking through the vessel, whether other damage had been done. I really wasn't taken up with this thing until I saw the operation.

Q. The operation on the line, as far as you had observed, had not actually begun until possibly ten,

(Testimony of J. M. Dowsett.)

twenty, or thirty minutes after you got aboard?

A. It may have been. It was after I got aboard.

Q. Now, then, you say you were watching those operations for a period of more than fifteen or twenty minutes or half an hour?

A. The operations of hauling those lines on board?

Q. Yes. A. It didn't take a half an hour.

Q. Which line was it that broke?

A. Messenger line.

Q. Then what did they do?

A. They sent out a line a second time.

Q. Then what did you do? During the half hour or so that you were observing what was actually going on in connection with this steel hawser from the "Arcona," they broke that messenger line twice?

Mr. WARREN.—I object to the question as assuming something not in evidence.

The COURT.—I sustain the objection.

Q. Did you, at any time, observe the size of the steel hawser that the "Arcona" ran or attempted to get aboard the "Celtic Chief"? A. I did not.

Q. Why didn't you?

A. Why, it was a good distance off and was under water most of the time. I couldn't have seen [2298—1467] much that distance.

Q. How much of it did you see?

A. I don't know as I saw anything more than what was just over the edge of the vessel, the stern of the vessel.

Q. How far from the hole, that is, the stern of the "Arcona," would you say was it that this line dropped into the water?

A. I couldn't tell you.

(Testimony of J. M. Dowsett.)

Q. How far would you judge?

A. I wouldn't attempt to say because it was too far off for anyone to judge sufficiently accurate enough

Q. As a matter of fact, you don't know what kind of line it was or how far it was that it entered the water? A. Nothing at all.

Q. And you don't know, as a matter of fact, how near they got that line to the "Celtic Chief"?

A. The steel line? :

Q. Yes. A. I couldn't tell you.

Q. In other words, you didn't see the end of the steel hawser that was attached to this messenger line? A. Nobody else could, either.

Q. Therefore, of your own knowledge, you don't know the reason why they were unable to get aboard? As to causes, you could guess, but you don't know?

A. It isn't exactly a guess. I know for a fact and—

Mr. WARREN.—Let the witness answer that question.

The COURT.—I understand the witness is trying to see what Mr. Olson means by the word "guess."

A. He's asking me whether it is purely a guess on my part as to what broke that line?

Q. I'm asking— A. That's what you say?

Q. Yes, I want to know whether it is a guess or it isn't a guess. I don't want you to give your guess. [2299—1468]

The COURT.—Let's hear what the witness has to say.

A. My answer was that no reasonable person would have a small manilla line—

Mr. OLSON.—Now, if the Court please, he's going

(Testimony of J. M. Dowsett.)

on to say what his judgment was. Was it a guess on your part or was it something based upon actual knowledge or observation?

A. I'm not guessing, Mr. Olson. If I say I know a thing it's not guessing.

Q. Do you know or don't you know? Are you merely guessing?

A. It's from knowledge that I say a thing. If I say that a steel line—

Mr. OLSON.—Now, Mr. Dowsett, I don't want any testimony now—I don't want any answer now as to what she actually did.

Mr. WEAVER.—Now, if your Honor please, I want to object to that question for this reason, that the question can't be answered by the witness.

Mr. OLSON.—Now, as I understand it, Mr. Dowsett, you have said that you do know.

A. Do know what?

Q. You do know what it was that broke that messenger?

A. I didn't go down to the water to see what it was, if that's what you mean by guessing.

Q. You are not merely guessing. It's coming to a conclusion, the result of facts and conditions that you actually observed there; is that the fact?

A. Yes.

Q. When you say that that messenger rope was broken as it was and you attempted to give a reason for it, it is not a guess. You saw the steel hawser to that messenger rope that was attached to it?

A. I couldn't see it because it was under water. It sank of its own weight.



(Testimony of J. M. Dowsett.)

Q. Had you made any observation as to the ocean bottom?

A. I've never been on the bottom, but I've been out there very frequently and I really have a fair knowledge of the condition of the bottom along there. [2300—1469]

Q. Do you know the condition of the bottom in that particular point? A. Not exactly.

Q. You don't know whether there are any coral boulders there or sand? A. I don't know.

Q. As a matter of fact, you don't know whether the end of that steel hawser caught on something?

A. I don't, of course, I don't, and it don't make any difference.

Q. Now, then, Mr. Dowsett, you have assumed, have you not in the first place, that the messenger line was attached to a steel hawser, isn't that so? You didn't observe that messenger line made fast to that hawser? A. No.

Q. And, therefore, you couldn't state that it actually was attached or not, the steel hawser?

A. Well, the steel hawser was run.

Q. But you didn't see the end of it?

A. The end of it, the manilla rope was hanging over the "Celtic Chief," and the steel hawser was attached to it.

Q. As a matter of fact, you don't know that?

A. How could I help know it? They kept pulling on it until they broke it.

Q. You don't know, as a matter of fact, that that manilla rope was attached to the steel hawser? That is simply your conclusion?

(Testimony of J. M. Dowsett.)

A. That is all, from what was said on board the boat by the executive officer, the captain of the ship, Captain Macaulay, and the conversation going on there.

Q. Now, had they actually attempted to get that hawser aboard the "Celtic Chief" in this manner by the time that you left?

A. We were about to leave; they were going at it again, in what way, shape, or form, I don't know.  
[2301—1470]

Q. Do you know whether or not, of your own knowledge, whether or not they got that line aboard the "Celtic Chief"? A. No.

Recess.

Q. You say you left the wharf about nine o'clock Wednesday evening in company with Mr. Kennedy to go out to the "Celtic Chief"? A. Yes, sir.

Q. How did you go out there?

A. We went out on a launch, I think; Young Brothers.

Q. Who else was with you?

A. Mr. Kennedy, Mr. Wilcox, George Wilcox, Mr. Abraham Lewis.

Q. Anybody else?

A. Not that I know of, except the man running the boat.

Q. Was there anybody who was on the "Mikahala" besides the officers and besides yourself and Mr. Kennedy, Mr. Wilcox, and Mr. Lewis?

A. Not to my observation.

Q. You didn't go to the "Celtic Chief" to look at all that night? A. I did not.

(Testimony of J. M. Dowsett.)

Q. Did you observe Mr. Wilcox, Mr. Dowsett, any other vessels that had lines attached to the "Celtic Chief" that evening?

A. Well, I could see all the lines, that's all.

Q. What vessels were they?

A. The "Helene" and the "Likelike."

Q. Now, what were the positions of those two vessels with reference to the "Celtic Chief"?

A. They were to leeward and a little on the port side pulling.

Q. Port side of the "Celtic Chief"?

A. Yes, pulling from the port side.

Q. Which was the farthest away, which was the farthest to port?

A. I couldn't tell you whether the "Likelike" was next. I'm not sure; I paid very little attention to them after that. They could only be seen by their lights. It was a dark night. [2302—1471]

Q. You couldn't see what the "Helene" was doing very well from aboard the "Mikahala"?

A. Couldn't see anything at all. Too dark.

Q. Now, then, do you know the distance that the "Helene" was from the "Arcona"?

A. The "Helene"?

Q. Yes, the Inter-Island boat that was closest the "Arcona."

A. I couldn't tell you whether she was the closest or not.

Q. Assuming that it was the "Helene."

A. She was further away than we were.

Q. She was very much further from the "Arcona" than the "Mikahala"? A. That is my judgment.

Q. That distance between you and the "Arcona"



(Testimony of J. M. Dowsett.)

was sufficient so you were enabled to see the lines running to the "Helene"?

A. I saw no other lines next to the "Arcona."

Q. How did you get on the "Mikahala" that night?

A. Come around the side of the ship.

Q. Which side?

A. I can't tell you now. I think it was—I'm not certain whether it was the port side or not. I think it was the port side.

Q. It was the side they were loading stuff on her?

A. I can't remember now. I think it was on the port side.

Q. That would be the side away from the "Arcona"? A. The side away from the what?

Q. From the "Arcona"? A. On the port side.

Q. That would be to the eastward?

A. Northward.

Q. East and north? A. East and northward.

Q. The northeast side, would you say? A. Yes.

Q. Now, coming around to the "Mikahala," did you come astern to the towing vessels or did you come around the bows of the towing vessels in order to reach the "Mikahala"? [2303—1472]

A. I went right straight to her.

Q. Had you gone astern of the towing vessels in going to the "Mikahala"? A. No.

Q. As a matter of fact, the best views that you got of the towlines of the "Arcona" was after you got aboard the "Mikahala"? A. Absolutely.

Q. You had not seen them before that?

A. Except in the afternoon.

Q. Then, as I understand it, the "Arcona" had no lines aboard the "Celtic Chief"?

(Testimony of J. M. Dowsett.)

A. She was attempting to get them aboard.

Q. Did you see the Captain, Piltz, the first officer of the "Mikahala" at any time that evening?

A. I saw him at intervals.

Q. Now, if Captain Piltz has sworn in this proceeding that it was so dark on Wednesday from the time that he was aboard the "Mikahala," that it was impossible to seek any lines on the "Celtic Chief" from the "Arcona"—

A. I don't know anything about Captain Piltz. I know what my own eyes could see.

Q. As a matter of fact, if Captain Piltz couldn't see it was only because he couldn't see? You could see all right? A. That's an assumption.

Q. As a matter of fact, that's the fact?

A. I'm not assuming at all.

Q. I say, Mr. Dowsett, if Captain Piltz wasn't able to see the lines running from the "Arcona," it was because he couldn't see as well as you could?

Mr. WARREN.—I object to that as asked and answered.

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question, Mr. Dowsett.

A. They were easily observed by me. I don't know whether or not they couldn't be by anyone else.  
[2304—1473]

Q. Couldn't be any mistake?

A. Absolutely not.

Q. You saw both of them?

A. Saw them both, both before and after the light went on.

Q. Did the search-light of the "Arcona" play upon the lines that were attached to the "Helene"?

(Testimony of J. M. Dowsett.)

A. Played upon the whole vessel.

Q. The whole vessel was visible?

A. From stem to stern. Mr. Olson, if I had a camera that night I'd like to have taken a snapshot of that vessel. It was as light as day.

Q. Now, then, if Captain Piltz has testified that at no time during that evening that search-light was put upon the toelines so that they were visible from the light of the search-light, then that he is incorrect in that testimony?

Mr. WARREN.—I object to that.

The COURT.—I will allow the question.

Mr. OLSON.—Answer the question, Mr. Dowsett.

A. The question is, if he stated that at no time the lights or the light from the "Arcona" displayed the whole of the vessel, the whole of the "Celtic Chief," that he was incorrect.

Q. Yes, that testimony of his is incorrect.

A. If he said so that at no time, to my judgment, it would be incorrect, for the reason that the light did shine upon the whole vessel and upon the lighter-  
ing and sometimes it was a moving light. They didn't make that light stationary. I didn't say that there was a steady light upon the whole and every part of that vessel, a continuous light. There may have been times a slight movement.

Q. Your testimony is, is it, that during a considerable part of the time after the search-light began to play about the "Celtic Chief" operations, it was so light about that whole vessel that if you had had a camera you could have taken a [2305—1474] picture?

A. There were times, from the best of my memory,

(Testimony of J. M. Dowsett.)

that I could take a picture of the whole vessel.

Q. And any person on board the "Mikahala" noticing the "Celtic Chief," couldn't help but see the "Celtic Chief" including the towlines to the vessels?

A. That would be an assumption.

Q. They must have been able to see it?

A. Sure, I saw it.

Q. And any other person on the "Mikahala" would have been able to see it?

A. Yes, except a blind man. Of course, I take exception to that. Mr. Wilcox, he wouldn't see it.

Q. Now, then, Mr. Dowsett, you know, do you not, that a strong light, concentrated light, a search-light, that light is more or less blinding and the darkness about that light is increased, is it not true, rather than illuminated? A. That is a fact.

Q. So that with that search-light playing it would be very difficult to observe just what the situation was and what the conditions were immediately above, about, and below that search-light. Isn't that true?

A. Well, yes. I suppose two hundred and fifty feet above it would be pretty dark, but just how far that would spread, I can't say. The search-light was directly over the stern of the vessel.

Q. As a matter of fact, it was back in the superstructure of the cruiser?

A. It was upward of the stern of the ship.

Q. And any person looking over the stern of the vessel would have been able to see both of those lines, would he not? A. Looking from where?

Q. From the "Mikahala."

A. Yes, sir; I saw them. [2306—1475]

Q. Well, any persons would have been able to?

(Testimony of J. M. Dowsett.)

A. I think so, except Mr. Wilcox.

Q. Now, if Mr. Kennedy says he was unable to see one of those towlines, he must have been incorrect?

A. I do not know.

Q. Didn't both of you make observations of what was going on?

A. Can't say what he was doing.

Q. You were there with him?

A. He was forward and I aft. I was above and he was below.

Q. You were together more or less? He was with you?

A. We were there pointing out the situation as it developed from time to time.

Q. If a person were able to observe from the "Mikahala" one of those towing lines, to wit, the towing line that was nearest to the "Mikahala," he couldn't help observing the other "Arcona" line? And if Mr. Kennedy says that he was only able to see the towing line which was nearer to the "Mikahala" and he was unable to see the other something must have been wrong?

A. *He* attention must have been engrossed with something else.

Q. Any person with ordinary eyes would have been able to see them with perfect clearness?

A. I saw them.

Q. Answer the question. A. It seems to me so.

Q. And in looking at one boat's lines he could not very well fail to see the other?

A. Hardly possible, I think.

Q. And yet you could see where those lines went



(Testimony of J. M. Dowsett.)

aboard the "Celtic Chief"?

A. There was a number of lines.

Q. A number of wire lines?

A. I wouldn't say that.

Q. There is considerable difference in manilla and wire lines?      A. I should think so.

Q. A manilla hawser is very much larger?

A. I am not an expert.

Q. You know that to be a fact? [2307—1476]

A. It would be a guess.

Q. If, as a matter of fact, these two steel hawsers were an inch and a quarter in diameter and these manilla hawsers are over one and a half inches in diameter, you would be very well able to distinguish between those?      A. I couldn't know.

Q. You couldn't distinguish it?

A. I could not.

Q. And with the light that played on the "Celtic Chief," you couldn't very well distinguish them?

A. No.

Q. Nor at the the stern of the "Celtic Chief"?

A. Had I been close I might.

Q. You were on the "Mikahala" and saw perfectly well?

A. Exactly, but I was some little distance from the stern of the "Celtic Chief."

Q. Captain Miller might have had a steel hawser for ought you know?

A. At that distance I defy anybody to have told even with the light there whether they were steel or manilla.

Q. It was impossible to tell?

(Testimony of J. M. Dowsett.)

A. From the stern of the vessel.

Recess.

Q. Mr. Dowsett, the "Arcona," as I understand, lay in a position somewhat ahead of the position of the "Mikahala." As I understand you, the bow of the "Mikahala" was about in line with the stern of the "Arcona"? A. Approximately.

Q. That's correct? A. Approximately, yes.

Q. Now, the light from the search-light was such, as I understand it, that it lighted up the entire triangle formed by the "Arcona" at one point, the "Mikahala," at anchor point and the "Celtic Chief" at the third point? [2308—1477]

A. You understand it that way?

Q. That's what I understood you to say.

A. I didn't mean it that way if I said so. I mean to say there was light enough after the search-light went on to light up practically the area confined between those three vessels or a larger portion of it. Of course, it couldn't light up the bow of the "Mikahala" because we were between, but there was a reflection from the search-light to light up almost the entire area of those three vessels.

Q. As a matter of fact, do you mean to say that standing on the "Mikahala's" stern that there was light reflected over to the "Mikahala" from the search-light?

A. No, I wouldn't say that but there was a certain reflection of light from the center of the focus of the search-light which gave us a sort of reflection light beyond the exact focus of the search-light itself.

(Testimony of J. M. Dowsett.)

Q. Sufficient so—sufficient to light up the stern of the "Mikahala"?

A. I won't say the stern of the "Mikahala" but the water between the "Mikahala" and the "Celtic Chief."

Q. But it lighted the line of the "Mikahala"?

A. Well, looking from the "Mikahala" in the direction we were in we could see very well the whole line.

Q. At any rate, it reduced the darkness sufficiently so that about the stern of the "Mikahala" things were lighted up more or less? A. More or less.

Q. So a person looking from the "Arcona" would have been able to observe by means of that light pretty well what was going on at the stern of the "Mikahala"?

A. That I don't know. Back of a search-light, I've been at times and it's very hard to see from the point of the search-light.

Q. Now, Mr. Dowsett, don't you think that if that was capable [2309—1478] of lighting up the area between you and the "Mikahala" in the way that you have described, don't you think,—between the "Arcona" and the "Mikahala" as you have described,—don't you think that there would be a sufficient amount of light cast on the other side of the "Arcona" so that the "Helene's" light ought to have been visible by you from the "Mikahala"?

A. As they approached the "Celtic Chief" they certainly were visible.

Q. What about the lines at the "Helene's" stern?

A. Couldn't see those.

(Testimony of J. M. Dowsett.)

Q. What about halfway out?

A. Couldn't say that.

Q. Anything? A. I don't say how far.

Q. How about a third of the way? But undoubtedly you could see lines going out from the "Helene"? A. No, from the "Celtic Chief."

Q. Don't you think, Mr. Dowsett, that if the searchlight of the "Arcona" was located in the upper of the "Arcona," in the superstructure, there at that point, that the stern of the "Arcona" itself would cast a considerable shadow out into the ocean from the stern? A. I presume it would, yes.

Q. Do you think it would be possible, in view of that shadow, to see a line dropping down from the stern of the "Arcona" to a point in line, ten or twelve feet from the stern of the "Arcona"?

A. I saw it myself.

Q. Notwithstanding that shadow?

A. I don't say there was a shadow that would obstruct the view of those lines.

Q. Aren't you satisfied that there must have been?

A. Mr. Olson, you can't put words into my mouth. I've said, I'll say again, almost in a line parallel to the way the vessel was laying toward the "Celtic Chief" that the light was emitted somewhere from the point amidships of the "Arcona." Whether there was a shadow just beyond the stern or everything was lighted up as clear as day from amidships of the [2310—1479] "Arcona" clear to the "Celtic Chief," I haven't said.

Q. Don't you know that both of those lines did not, as a matter of fact, pass from the stern of the

(Testimony of J. M. Dowsett.)

"Arcona" at all, but were passing from the chocks some thirty, forty, or fifty feet forward of the stern?

A. It may have been. I saw them the way they went down against the side of the vessel.

Q. The side of the "Arcona"?

A. Yes, alongside.

Q. Don't you know, as a matter of fact, that those lines were fastened, say the line on the port side of the "Arcona," that is, the side toward the "Mikahala," that the wire line from the "Arcona" was fastened through a chock about forty or fifty feet forward of the stern of the "Arcona"?

A. I don't know it, sir.

Q. Don't you remember that?

A. I didn't see it if it's so.

Q. Well, where was it fastened?

A. Further astern.

Q. Where at the stern?

A. Over the stern, if anything, right clear over.

Q. Are you sure it was over the stern?

A. The stern or to one side.

Q. Then, I understand you to say, that hanging as it did, that it passed over the stern of the "Arcona" and ran right down. A. Approximately, yes.

Q. Is that true of both of those wires?

A. As I saw them, yes.

Q. So that they did not run through the side of the vessel where they were fastened?

A. I didn't observe.

Q. You would have observed it if they had?

A. I say it is going on to two years and I can't recollect.



(Testimony of J. M. Dowsett.)

Q. If you saw those lines against the side of the vessel, it must have been over to the stern?

A. She had a rounded stern that went down and that line was— [2311—1480]

Q. Then it was directly over the stern?

A. Not directly; no.

Q. More or less back? A. They were straight.

Q. But I'm asking if it isn't the fact that if you saw those lines against the side of the vessel or one line, isn't it a fact that that line must have been and was, as a matter of fact, fastened somewhat forward of the line on the port side of the "Arcona"?

A. Very little forward.

Q. Well, about how much?

A. That I couldn't say. I can't remember it to-day.

Q. And if, as a matter of fact, it is true that this line on the port side of the "Arcona" was fastened at a chock, passing through the bulwark at a point forty or fifty feet forward of the stern of the vessel, are you prepared to say that you did not see the line in that position?

A. I am. I did not see it.

Q. As a matter of fact, it wasn't in that position?

A. I don't say that it was not, but I didn't see it.

Q. Wouldn't you have seen it if it had been?

A. It depends how it was lying.

Q. If it was running along the line of the boat, if it was lying along the line of the deck and then came down through a chock, if it ran along the ship, could you see the other line? A. I could not.

Q. But you could see the line in the water?

(Testimony of J. M. Dowsett.)

A. I saw the line going into the water. I remember that quite distinctly.

Q. And it dropped down practically straight down? A. Straight, at an angle.

Q. But they stuck the water about ten or twelve feet from the hull of the "Arcona"?

A. As near as I can remember.

Q. Do you know how high the line on the side of the "Mikahala" was fastened?

A. I couldn't tell you that. [2312—1481] Probably varied as she became laden with fertilizer.

Q. Not the "Mikahala," the "Arcona."

A. You mean to say that I know what was the height of the "Arcona"?

Q. How far was the line above the water line, if you observed that?

A. If you'll tell me the height of the "Arcona"—

Q. Let's have your idea.

A. I haven't the slightest idea.

Q. Was it one foot or was it thirty feet or nearer one than the other?

A. Nearer twenty feet than thirty.

Q. About somewhere in the neighborhood of twenty feet, according to your judgment?

A. Roughly.

Q. And that line dropped down there that height to a point approximately, according to your best recollection and judgment, ten or twelve feet from the hull of the "Arcona"?

A. I say may be two or three fathoms.

Q. Two or three fathoms?

A. That would be, say, twelve or fifteen feet.

(Testimony of J. M. Dowsett.)

Q. Do you know the depth of the water in that locality? A. I do not.

Q. Don't you know, as a matter of fact, that the water was nowhere in the neighborhood of twenty or thirty feet? A. I have not heard.

Q. And if it was in the neighborhood of from twenty to thirty feet with the vessel, in the position of the "Arcona," those lines must have gone down pretty precipitously at that point?

A. I wouldn't want to answer that because the weight of the line might have taken it to the bottom and it might not. It may have been lying loose or may have been in a stretched condition and a strain on it.

Q. It is, as a matter of fact, Mr. Dowsett, it must be true, must it not, that if the "Arcona" had, from the time that you observed the lines in this condition, put a strain on those lines, the "Arcona" in order to do that must have gone forward? [2313—1482]

A. Yes.

Q. A considerable distance?

A. If she had put a strain on the lines?

Q. Yes, she would have had to change her position seaward?

A. That depends how much line was out.

Q. She would, wouldn't she, in view of the angle in which these lines were lying? She would have gone further seaward in order to get a strain on those lines? A. If both ends were fastened; yes.

Q. Do you know at all, or do you approximately, the length of the "Mikahala"?

A. Do I know her length?

(Testimony of J. M. Dowsett.)

Q. Yes. A. Approximately.

Q. About how much?

A. About 150 feet, I should say.

Q. How much further do you think the "Arcona" would have been obliged to go in order to get a strain on those two wire lines if fastened to the "Celtic Chief"?

A. I couldn't for a moment say. I don't know what depth of water there is there.

Q. Let's assume that it is from twenty to thirty feet?

A. That is a mathematical calculation. You've got to go over the distance from the ship.

A. No. I would not if they were hanging almost direct down, as you say.

A. I really couldn't answer you. You want to know how far she would have to go?

Q. How much farther seaward she would have to go in order to get a strain on those two wire lines?

A. Well, I should judge she would have to go her own length.

Q. Somewhere in the neighborhood of 150 and 200 feet?

A. You're asking about the "Arcona." The "Arcona" is much more than 150.

Q. How much more? A. I don't know.

Q. How much longer was she than the "Mikahala," according to your judgment and recollection?

A. Probably fifty per cent. [2314—1483]

Q. What did you say was the length of the "Mikahala?" A. I say 150 feet.

Q. So the "Arcona," you think, was over two

(Testimony of J. M. Dowsett.)

hundred feet long? A. I should think so.

Q. And she would have to go that distance more in order to get a strain on those lines?

A. Yes. I'm not a sea captain.

Q. One hundred and fifty feet being the length of the "Mikahala," the distance that she moved farther than the "Mikahala" in order to put a strain on those lines, if she had had a strain on those lines, would have been somewhere in the neighborhood of 350 feet or 400 feet ahead of the stern of the "Mikahala"?

A. Well, she would have had to be 200 feet from where she was, say 250 feet.

Q. That would leave somewhere in the neighborhood of 400 feet, the stern of the "Arcona" would have to be 400 feet ahead of the stern of the "Mikahala" in order to have a strain on those two lines?

A. If I'm correct in my judgment that the bow of the "Mikahala" was in line with the stern of the "Arcona," yes.

Q. Now, if as a matter of fact, the "Mikahala" had 650 or 700 feet of hawser between her and the "Celtic Chief," it would have required wires, wire lines running from the "Arcona" to the "Celtic Chief" of over eleven or twelve hundred feet in length in order that the "Arcona" could be in the position that she was in and the line hanging in the position that she occupied?

A. I don't know. I don't know what her distance was from the "Celtic Chief."

Q. I'm asking you if she was 650 feet?



(Testimony of J. M. Dowsett.)

A. If she was a thousand feet it would take that much more; yes.

Q. Those lines must have been very much longer than the lines of the "Mikahala"?

A. If the "Arcona" was further from the ship than the "Mikahala. [2315—1484]

Q. Well, she was further from the ship, was she not, than the "Mikahala"?

A. I'm not prepared to say.

Q. Didn't you say that her stern was just about in line with the bow of the "Arcona"?

A. From my observation, yes.

Q. And the "Mikahala" had a strain on her lines?

A. Yes.

Q. And the "Arcona" had no strain on her lines?

A. Not according to my observation.

Q. So those lines running from the "Arcona" to the "Celtic Chief" must have been anywhere from four to five hundred feet longer than the lines running from the "Celtic Chief" to the "Mikahala"?

A. They would naturally have been as much longer as the length of the "Mikahala" and the slack of the wire laying in the space intervening between the "Arcona" and the "Celtic Chief."

Q. Which, according to your judgment, would be 200 or 250 feet?

A. I say in order to get a strain on it she would have to go that. I'm not an expert on those matters.

Q. Now, Mr. Dowsett, you observed that the "Celtic Chief" was beginning to change her position after you had taken your nap when you came up on deck? A. I tried to take a nap.

(Testimony of J. M. Dowsett.)

Q. You observed that the "Celtic Chief" had changed her position on account of the fact that the "Mikahala" had changed her position according to certain shore lights that you used as range lights?

A. That was my deduction.

Q. Now, Mr. Dowsett, there was some swell running there that evening, was there not?

A. There surely was.

Q. Do you think that taking range lights in the manner that you did on board the "Mikahala" that they would [2316—1485] swerve, perhaps, with the "Mikahala" going up and down with the swell and her lines slackening up with the swell?

A. Oh, I'd have to make allowance for that.

Q. How much allowance did you make for it?

A. For a swell?

Q. Yes.

A. The swell was up and down, not forward and aft.

Q. Don't you know, as a matter of fact, that that swell had a tendency to move the "Mikahala" toward the "Celtic Chief" somewhat?

A. And she had a strain on her ropes. The strain might be little but it wouldn't swerve forward and aft.

Q. Don't you know, as a matter of fact, that that swell was striking the "Mikahala" almost on her bow, a little bit on her port bow? A.

Q. Then it would have a tendency, wouldn't it, to throw the "Mikahala" toward the "Celtic Chief"; isn't that so?

A. With an anchor out and her engines at work,

(Testimony of J. M. Dowsett.)

I question very much whether there was any chance for any force outside of the boat riding the waves, riding the swell; she might be one side or the other. There wouldn't be very great tendency to move.

Q. Even though the "Celtic Chief" was a fixed object and the powerful strain was being exerted on the hawser connecting the "Mikahala" with the "Celtic Chief"?

A. Of course, there'd be a little give. It isn't absolutely rigid.

Q. Don't you know that the "Mikahala" anchor was laid not directly ahead but on her port bow?

A. Well, I understood it was.

Q. As a matter of fact, that wouldn't prevent it from giving somewhat if the swell had a tendency to throw her towards the "Celtic Chief"? [2317—

1486] A. It would help to prevent it.

Q. But that would not entirely prevent it?

A. The chain was forward, not on the port side.

Q. How far were those range lights away from you, would you say? A. On the shore?

Q. Yes.

A. Well, the lighthouse and one or two other lights on the shore. Whatever the distance is from out the harbor there.

Q. How much do you think?

A. About a mile or half a mile. A quarter of a mile or half a mile. That would be the first light. The lighthouse light, I don't know.

Q. How many did you use, two?

A. More than that. I had different lights.

(Testimony of J. M. Dowsett.)

Q. You used two lights for one range?

A. Two lights for one range.

Q. About how far away would you say that the closest of those range lights was?

A. A half a mile.

Q. And then the second one that you used?

A. The width of the harbor.

Q. That would be about what?

A. The width of the harbor to the lighthouse.  
The distance from Sand Island to the shore light.

Q. How far would that be, a mile?

A. Across the harbor you mean.

Q. I don't know what part of the harbor you're talking about.

A. I'm talking about the harbor from the foot of Fort Street to the Quarantine Station.

Q. One hundred and fifty or a couple hundred yards?

A. Yes, three hundred yards probably.

Q. Now, Mr. Dowsett, you mean to say that you had two range lights one about half a mile away and another one about three hundred yards from that light which you used as your nearest range?

A. That's true.

Q. And you think that you were able to observe by means of [2318—1487] that range that the "Celtic Chief" had come somewhat?

A. I could tell. I watched it so carefully that I could see.

Q. How much did you judge from time to time that she was coming?

A. I haven't the slightest idea, because the instant

(Testimony of J. M. Dowsett.)

those lights commenced to change they kept increasing the distances between them. How much they would increase at the distance I was from those lights and the distance from the "Celtic Chief," I'm not prepared to say.

Q. According to the testimony in this case which is undenied, the "Celtic Chief" was about 260 feet in length and had at the utmost gone on the beach not more than her length.

Mr. WARREN,—That is not the testimony.

Mr. OLSON.—That's my understanding of the testimony, no more than her length.

A. She'd gone on not more than her length, you say.

Q. Yes. Well, do you know that she had gone on less than her length?

A. What do you mean by that?

Mr. WARREN.—I don't want to let that go as an admission.

Q. Well, do you know that she had gone on the shore not more than 350 feet. It was necessary, in order for her to come off the beach for her to travel 350 feet seaward to get into deep water. Now, you were able to determine by these range lights that the "Celtic Chief" had actually moved seaward some part of that distance that she had gone ashore, shortly after you came up from attempting to have a nap and before she finally came off. You were able to determine that, were you?

A. From the time that I went to take a nap up to the time I got up?



(Testimony of J. M. Dowsett.)

Q. Not in between that time. You observed that she had come?

A. I observed it when I got up from my trying to take a nap; that the position of these range lights had changed. It was about an hour's time. [2319—1488]

Q. Don't you know, Mr. Dowsett, that the farther away the range lights from the position where you were taking your observation and the nearer together those range lights are, the greater will be the apparent distance between the two lights?

A. Sure!

Q. You know that to be the fact, don't you?

A. That the nearer the range lights were and the further they were from us. I don't see that's necessarily so.

Q. Well, at any rate, you would have to travel a very short distance at the point where you were standing making the observation in order to show a variation between those two lights, isn't that so?

A. It wouldn't take a very great distance to make a change.

Q. Isn't it possible, Mr. Dowsett, that in taking these observations, that you were simply observing a change due to the variation of the "Mikahala" herself in the swell?

A. I'm not contending, Mr. Olson, that my observations were absolutely correct. I simply say that we had taken several prior to our going to take a nap and when I came up and took them again I noticed a change. That change kept increasing as it went on and changed very rapidly after a *few after*

(Testimony of J. M. Dowsett.)

widening up. The question of whether the "Celtic Chief" was moving would depend entirely upon whether the "Mikahala's" line were absolutely unstretchable and taut and that no give was possible between the two vessels, that everything was absolutely strong and fast, and unquestionably the "Mikahala" had moved forward according to my observations by these lights then the "Celtic Chief" began to move.

Q. When did you first make a note of these range lights for observation purposes?

A. Very shortly after I went aboard of the "Mikahala."

Q. And you said that you noted those range lights immediately before you went to take your nap and there was no apparent [2320—1489] change?

A. There was no apparent change up to the time we went to bed.

Q. Did you observe them more than once?

A. Repeatedly I went and I saw no change.

Q. And they remained the same?

A. They remained the same, as far as my observation went.

Q. Did you observe the lines of the "Mikahala" at any period? Were they taut or not?

A. As taut as a line of that sort could be in my opinion.

Q. Let us have an idea of what you mean by the position of those lines. Would they at times sink down into the water and come up again?

A. They would dip into the water and rise and fall with the swell as the "Mikahala" would rise and fall.

(Testimony of J. M. Dowsett.)

Q. Do you think that was done entirely to the fact that the "Mikahala" was rising and falling?

A. More or less so.

Q. Must it not be true that that was due in part to the fact that the "Mikahala" would surge forward with the swell and back again, having a tendency to throw herself forward?

A. Rising and falling. I said so just now. That's what I mean.

Q. Didn't she go forwards and backwards more or less? A. Possibly.

Q. How was it possible for these range lights to remain the same from the time you went aboard up to the time you went to take your nap?

A. Up to a certain point there was a little change.

Q. Was that swell very great?

A. During what time?

Q. During the time you were taking those observations? A. There was a swell there always.

Q. The "Mikahala" was falling up and down or was there simply a [2321—1490] small swell?

A. There was more or less of swell at times. A swell doesn't run altogether. Two or three big combers big billows, and then it would be perfectly quiet for a period of two or three minutes.

Q. Wouldn't that interfere with your taking your range lights?

A. Not when she was steady. That was the way that we could judge it.

Q. When they came in, Mr. Dowsett, as you say, wouldn't they come in with considerable force, raise the "Mikahala" up and down considerable?

(Testimony of J. M. Dowsett.)

A. I wouldn't say that.

Q. It was a fairly smooth sea?

A. Well, I didn't say that. It was pretty rough when we went there in that sampan; caused us considerable trouble.

Q. Did you wet your clothes?

A. I wouldn't say that. I was trying to save myself being knocked out.

Q. There is always more or less of a big swell against a big object like that. Have you any more to answer to that last question? A. No.

Q. Now, then, Mr. Dowsett, which side did you go on board the "Celtic Chief" in the afternoon?

A. We boarded her on her port side.

Q. On her port side?

A. Yes; that is, the seaward side.

Q. On which side did you board her in the evening? A. I didn't go aboard in the evening.

Q. What direction would you say the "Arcona" was pointing from the "Celtic Chief"?

A. By the compass.

Q. No, not by the compass, in line with the "Celtic Chief." On her starboard quarter astern or on her port quarter?

A. A little on the port quarter, I should judge.

Q. That is to say, the "Mikahala" behind on the starboard quarter of the "Celtic Chief," the "Arcona" was somewhat more to port?

A. No, hold on. She was more [2322—1491] on the starboard quarter, if anything.

Q. You know, do you not—

A. I want to correct that.

(Testimony of J. M. Dowsett.)

Q. You know, do you not, that the "Arcona" had two lines running to the "Celtic Chief," one to the starboard side and one to the port side of the hull?

A. I don't know it. I understood so.

Q. Could you see that? A. Couldn't see.

Q. Are you positive that she was more or less to the starboard?

A. No, I'm not. If anything, she would be more directly in line with the "Celtic Chief" that she was on the other.

Q. Now, then, I'd like to have you draw, Mr. Dowsett, as nearly as you can, the position of the "Arcona" and the "Celtic Chief" in reference to each other. In the first place, I want you to—you say they were directly in line with one another. Will you show how that was? Now, draw the "Celtic Chief" first.

(Witness draws.)

Q. Now, then, draw a line for the wire, please. Assuming that there was one wire line running from the "Celtic Chief" to the "Arcona," kindly show the direction of that line as it would be.

(Witness draws.)

Q. Now, draw two lines, one on either side, from the "Arcona" to the "Celtic Chief."

(Witness draws.)

Q. Now, then, will you kindly write "Celtic Chief" over the object which you have drawn indicating the "Celtic Chief," which was intended to represent the "Celtic Chief"?

A. Right here?

Q. Yes.



(Testimony of J. M. Dowsett.)

(Witness writes.)

Q. Now, will you kindly write "Arcona" alongside the object you have drawn representing the "Arcona"?

(Witness writes.)

Q. Have you drawn the "Celtic Chief" and "Arcona" with reference [2323—1492] to each other?

A. Yes.

Q. This would represent practically the way the "Arcona" was lying with reference to the "Celtic Chief" according to your best judgment and observation?

A. Practically; it may have been a little more like this. (Indicating.)

Mr. WARREN.—I want it indicated what he means by, "Like this."

The WITNESS.—The reason that I want to change that, I had it in direct line. It was not. My testimony will show you that I said, if anything, she was on the starboard,—I first said port,—on the starboard quarter and a portion of that here I could see when the light was shown from the "Arcona" upon this vessel. I could see the side of the vessel.

Q. And you couldn't see the port?

A. I'm only telling you what I saw from the "Mikahala," but you could see the "Helene" running abreast of the "Celtic Chief" from the "Mikahala's" deck on the starboard side, and you couldn't see anything from the port side, and the angle out to be more like this, if anything. There, about that way.

Q. Now, will you indicate by the letter A the first

(Testimony of J. M. Dowsett.)

figure that you drew and the letter B the second?

A. Of the "Celtic Chief"? That's my idea of the position that she was in.

Q. Now, then, kindly draw the position of the "Mikahala," not only with reference to the "Arcona" but also with reference to the "Celtic Chief," on this diagram.

A. As regards distance.

Q. Distance and position both. Now, mark the object that you have drawn as the "Mikahala." You have written the word "Mikahala," have you, opposite the drawing representing the "Mikahala"?

A. Yes.

Q. Now, then, according to this, Mr. Dowsett, the "Arcona" lay in a position practically parallel to the "Mikahala"; is that [2324—1493] correct?

A. The "Arcona" what?

Q. The "Mikahala" and the "Arcona" were practically parallel to one another in the positions they lay?

A. Not parallel. This is one line and this is another line.

Q. That is to say, the "Mikahala" was pointing more to the starboard of the "Celtic Chief" and the "Arcona" was pointing more to port of the "Celtic Chief." Is that correct?

A. A little bit; yes.

Q. So that, if the "Mikahala" and the "Arcona" had lain directly, in exactly the same position, their bows would have been separated a little; is that correct?

A. They were separated.

Q. Then they would be at a different angle from the vessel so their bows would have been further

(Testimony of J. M. Dowsett.)

from each other?

A. That would depend whether the "Arcona" had been pulling or lying idly.

Q. I'm asking you in the position she lay.

A. She wasn't working.

Q. In the position she lay.

A. If she'd had a strain on her ropes, as the "Mikahala" had, she might have been pointing in a different direction.

Q. Now, I'm asking you how she was pointing in the position that she lay.

A. I can't tell exactly, but she was pointing at an angle from the "Mikahala."

Q. Then the "Mikahala" was lying northeast or northward of the "Arcona"?

A. I should say the northward according to the compass.

Q. Then as I understand it, the bow of the "Arcona" would be pointing or was pointing more to southward?

A. If anything, yes, according to the points of the compass at the time the "Celtic Chief" came off.

Q. How was it prior to that time when you came aboard the "Mikahala"?

A. I don't know. [2325—1494]

Q. Well, you observed the "Arcona" from time to time pretty closely?

A. As near as I could looking at her. I couldn't tell how she was.

Q. According to your judgment she was, her bow was pointing toward the south?

A. Compared with the "Mikahala," both pulling

(Testimony of J. M. Dowsett.)

the same direction.

Q. As regards the other boats I'm asking you. Was the "Arcona" pointing toward the "Mikahala" or away from the "Mikahala" in the position that she lay when you came aboard the "Mikahala"?

A. The only difference possibly was this vessel was not pulling.

Mr. WARREN.—Which vessel?

A. The "Arcona."

Q. The only difference there could have been was the angle made by the distance between the two vessels as they lay?

A. I couldn't answer a question like that.

Mr. OLSON.—I offer this drawing in evidence and ask that it be marked.

Mr. WARREN.—No objection.

(Drawing received in evidence and marked Libelee's Exhibit 6.)

Q. Now, Mr. Dowsett, to go into that matter a little further without reference to the position that the "Arcona" would have occupied if she had been pulling and confining yourself to what you actually observed there, would you say that the "Arcona," the "Arcona's bow," was pointing toward the "Mikahala" or away from it or practically in a line parallel to the "Mikahala," in line with her stern?

A. As they lay there only the "Mikahala" was pulling and I don't know what the other was doing. Assuming that from what I saw they were both pulling in the same direction or heading in the same direction, the "Mikahala" anchors pointing a little over to the north of the course that the "Arcona"

(Testimony of J. M. Dowsett.)

was pointing and the "Arcona," naturally, a little over to the south.

Q. Yes. As far as you observed, if a line had been drawn straight from the "Celtic Chief" to the "Arcona," to the "Arcona's" [2326—1495] stern, her bow would have lain in line with that line; is that true? That's the way you observed it?

A. If a line had been drawn—

Q. Directly from the stern of the "Celtic Chief" to the stern of the "Arcona" and had been continued on through the "Arcona," the bow would have been in that line. She was pointing straight ahead from the "Celtic Chief"?

A. She was pointing from the "Celtic Chief."

Q. Straight ahead? A. That's hard to say.

Q. As far as you observed?

A. As far as I could see she was pointing out there same as we were pointing at an angle a little further south.

Q. And then wouldn't it be true, Mr. Dowsett, if you had moved the "Mikahala" further toward the "Arcona's" stern and the bow moving exactly the same distance so there would not be a variation in the position of the "Mikahala" except that it was moved farther toward the "Arcona," according to your observation, the sterns of the two vessels would have met?

A. The stern of the "Arcona" and the "Mikahala"?

Q. Yes.

A. Pointing in that direction, they would have increased and widened further. No, if she had con-



(Testimony of J. M. Dowsett.)

tinued the course she was pointing and the "Arcona" had kept on that course, the further they had gone the wider they'd be.

Q. You don't understand my question, Mr. Dowsett. The point that I'm making, Mr. Dowsett, is this: If the "Mikahala"—I'll make my question a little more clear. Suppose the "Mikahala" had gone straight ahead from the position she occupied until she had got abreast of the "Arcona"?

A. Which she did do.

Q. That isn't the point. This is earlier in the evening from the time you went aboard the "Mikahala" until you went down to try to take a nap. If the "Mikahala," at that time, had gone [2327—1496] forward, straight ahead until she had got abreast of the "Arcona" and then had been shifted over toward the "Arcona," her stern travelling the same distance toward the "Arcona" that her bow had travelled in that direction, isn't it true, that the stern of the two vessels would have touched first and their bows drifted some distance?

A. Not necessarily, if the "Arcona" had been pulling.

Q. I've tried, Mr. Dowsett, to leave out of consideration, entirely, the question of whether or not the "Arcona" was pulling, and I wish you to confine yourself to the observation of the "Arcona" as she lay, irrespective of the pulling. A. Yes.

Q. Now, you say the "Arcona" was pulling directly—isn't it true that if you had kept your boat toward the "Arcona" that the "Mikahala" would have gone through?

(Testimony of J. M. Dowsett.)

A. How could you do that when you got the line there keeping you from going?

Q. I'll ask you my question again.

Q. If you have a vessel that's on an end of the line and get her up there and she was kept that way, how could she have any different position than that I show you now?

Q. And then, Mr. Dowsett, if that were the case, she couldn't possibly move in the way I told you. But I'm asking you to leave out of consideration entirely any towing lines and assuming that the "Mikahala" had drifted in a straight line, straight ahead without any towing lines, and then had been moved over in that position, that is, abreast of the "Arcona."

A. What are you trying to get at? If that boat is anchored there and the "Mikahala" moves forward without any line forward, you are trying to make me admit that the stern of the "Mikahala" would be nearer the stern of the "Arcona" than the bow? I can't answer that.

Q. I place a pencil directly on the line of the "Arcona" as you have drawn it. I now place a pencil on the line of the "Mikahala." [2328—1497] Isn't that so? A. Yes.

Q. In that way the ends of those two pencils nearer, the nearest to the "Celtic Chief," are nearer together, are they not, in so far as the angle is concerned, than the ends at the other end?

A. Certainly.

Q. Showing that the bows of the two vessels are pointing away from each other?

A. Sure, I admit that.

(Testimony of J. M. Dowsett.)

Q. Now, then, I move the pencil representing the "Mikahala" in a straight line forward until it is abreast of the "Arcona." Do you observe that?

A. Yes.

Q. Now, then, Mr. Dowsett, having brought the "Mikahala," represented by this pencil, abreast of the pencil representing the "Arcona," I move this pencil representing the "Mikahala" toward the "Arcona" with the stern and the bow moving exactly the same distance. Isn't it true that the stern of the two vessels are in the same position?

A. You're asking a supposititious case.

Q. Isn't that true?

A. Not as to the "Mikahala" and the "Arcona."

Q. Now, then, Mr. Dowsett, assuming that these two pencils represent the "Arcona" and the "Mikahala" and assuming that I've moved the "Mikahala" abreast of the "Arcona," and assuming that the "Mikahala" is moved toward the "Arcona," the stern moving exactly the same distance as the bow, isn't the same true?

A. Are you including towlines now?

Q. Towlines are left out of consideration.

A. But this boat is anchored stationary forward and aft?

Q. Yes. A. She naturally would.

Q. Then it is true, as I have stated, Mr. Dowsett, that the sterns would meet and the bows be stretched at an angle? A. Certainly.

Q. That is true, isn't it? A. That is true.

Q. Showing, Mr. Dowsett, does it not, that the bow of the "Arcona" [2329—1498] in the position

(Testimony of J. M. Dowsett.)

that you observed it when you went aboard the "Mikahala" and from the time you were on the "Mikahala" before you went to take your nap, with reference to the "Mikahala," that this bow point from the "Arcona" ran toward it? A. Yes.

Q. And that is according to your best recollection the positions of the two vessels?

A. My recollection that they were both out.

Q. Further from each other? The bows together?

A. Couldn't be together.

Q. The sterns were necessarily nearer each other than their bows if they had been abreast?

A. Sure!

Q. The "Arcona" was not lying in a position like that, indicating that my pencil is at the stern further from the "Arcona" and the bow point toward the "Arcona"?

A. Not according to my observation.

Q. You didn't observe the "Arcona" in that position. Now, if you were standing, as a matter of fact, on the poop deck of the "Mikahala," well, at the stern of the "Mikahala" at the side of the wire on her starboard side, and had looked toward her, you would have seen, would you not the line of the "Arcona" on her port side? A. Yes.

Q. Wouldn't that give you an opportunity to observe whether or not she was lying practically parallel to the "Mikahala" or point away from the "Mikahala"?

A. That is my observation. She was possibly the whole length of her side pointing in a *direct* more southerly than that.

(Testimony of J. M. Dowsett.)

Q. And you were able to observe that? A. Yes.

Q. And you saw that at various times during the night? And so far as you could observe, the "Arcona" did not change her position?

A. I can't say as to her position. [2330—1499]

Q. Her direction?

A. Her position would change as far as going forward was concerned.

Q. I'm finding out about her angle.

A. Whether or not later she didn't change, I couldn't say.

Q. And she was not lying crossways to the "Mikahala" as far as you could observe, across toward her bow? A. No.

Q. And that was true from about a little after nine o'clock on Wednesday evening until the "Celtic Chief" came off, as you observed, so far as you observed?

A. Yes, there was little or no change as I understood it in the position of the "Arcona."

Q. And if there had been a material change of the "Arcona" so that she had been at an angle to the "Mikahala," you would have observed it?

A. I would have observed it.

Q. So it is perfectly clear to you that her bow was pointing away from the parallel line?

A. Was she what?

Q. The "Arcona," you say, was about sixty or seventy yards from the "Mikahala," as far as you observed? A. Roughly.

Q. That is over to southerly? A. To southerly.

Q. So that if the "Mikahala" had gone straight



(Testimony of J. M. Dowsett.)

ahead when you came aboard of her so that she would have come abreast of the "Arcona," the "Arcona" would have been more than sixty or seventy yards?

A. That distance would increase.

Q. So that she would have been more than sixty or seventy yards?

A. Yes. When I say sixty or seventy yards, that's the best of my judgment.

Q. Anywhere from 175 to 200 feet?

A. 150 to 200 feet, yes.

Q. If the "Arcona," then at her bow had had thirty or forty fathoms of chain out to an anchor laid off her port bow, [2331—1500] but not at right angles thereto, she could have put a strain on her—

Mr. WARREN.— I object to that question.

The COURT.—The objection is overruled. Answer the question.

Mr. WARREN.—The record shows my objection that it is not proper cross-examination, does it not?

Q. Answer the question, Mr. Dowsett.

A. Your question is? What did you say?

Q. Thirty or forty fathoms of chain from the "Arcona" out to her anchor lying from her port bow somewhat forward of her bow, and she had put a strain on her towing lines, would she have done anything from that angle?

Mr. WARREN.—I object to the question on the ground it doesn't appear at what time, your Honor.

Mr. OLSON.—All right. At the time Mr. Dowsett went aboard the "Mikahala" and from the time that he was on the "Mikahala" until he went to try to take a nap.

(Testimony of J. M. Dowsett.)

A. I don't feel competent to answer that question. In fact, I can't say unless I knew how much forward—you say a little forward and on the port side—that hawser was located from the bow of the “Arcona” or how far that anchor was, in other words, from the bow of the “Mikahala.” I can't for the life of me see how I could be expected to say. It would all depend upon the angle at which that anchor was from the “Arcona” itself, it seems to me.

Q. I'll show you, Captain, Mr. Dowsett, a drawing made in this case by another witness. I'm referring to Libellee's Exhibit 5, and will direct your attention to the drawing of the “Arcona” and the anchor line from the port bow of the “Arcona.” Now, I wish to ask you—

Mr. WARREN.—I wish here to interrupt by saying there is nothing on this exhibit to indicate an anchor line.

Q. Having directed your attention, as I say, to this diagram [2332—1501] of the “Arcona” there, I direct your attention to a line drawn at an angle to the port bow of the “Arcona” as there drawn and will ask you if the anchor from the “Arcona” was laid at an angle to her port bow as indicated. Assuming that that is the direction of her anchor shown with thirty or forty fathoms of chain to her anchor and if she had put a strain on her lines would she have interfered in any way with the “Mikahala,” the “Mikahala” being in the position that you knew she was in? A. I couldn't say.

Q. You said she was about 150 or 200 feet, the nearest point? A. 150 or 200.

(Testimony of J. M. Dowsett.)

Q. That being the case, Mr. Dowsett, isn't it true, that the "Arcona," as a matter of fact, could not, in any way, have interfered with the "Mikahala" if she had put a strain on that anchor, on that anchor-chain and her lines and pulled that way?

Mr. WARREN.—I submit this is not proper cross-examination, your Honor.

Mr. OLSON.—Answer the question, Mr. Dowsett.

A. I have not testified in any manner, shape, or form to having seen any hawsers, anchor-chains on the "Mikahala" or on the "Arcona," and I am not an expert on whether putting a strain on the part of the "Arcona's" anchor-chain would have dragged her near enough to the "Mikahala" to collide with her because I don't know as to where that anchor was. If you show me a scale drawing, everything drawn to scale, I could probably answer you, but I can't see how I can attempt to say according to that diagram there whether the "Arcona" putting a strain on her anchor hawser would come up as near to the "Mikahala."

Q. As a matter of fact, Mr. Dowsett, if she had thirty or forty feet—

A. Fathoms. [2333—1502]

Q. Thirty or forty fathoms of anchor-chain out and that was laid at an angle of approximately forty-five degrees—

A. That would be directly in front of the "Mikahala." I was going to say that and you took the words out of *your* mouth.

Q. —to the "Arcona" and then she had put a strain on her lines?

(Testimony of J. M. Dowsett.)

A. The "Arcona," you're speaking of?

Q. Yes. Would it have been possible for her to interfere with the "Mikahala" as she lay during the time that you've mentioned?

A. Not with thirty or forty fathoms of chain out at right angles.

Q. Not at right angles, at forty-five degrees.

A. At forty-five degrees? Whether there would be any chance for colliding? The "Mikahala" remaining in the same position?

Q. Yes. A. No, I don't think there would.

Q. And there wouldn't have been any interference, as far as you could judge there?

A. It would have been probable except from a seaman's standpoint.

Q. As a matter of fact, they would not have actually obstructed one another except that the danger would have been greater?

A. They wouldn't have been at a safe working distance.

Q. But they wouldn't have overlapped?

A. Possibly not. I'm not competent to say.

Q. Now, isn't it the fact, Mr. Dowsett, that during the last half hour or hour, that the "Mikahala" was pulling on the "Celtic Chief," just prior to the "Celtic Chief" coming off, that the "Mikahala" worked farther over to what you call the northward, that is, farther away from the "Arcona"?

A. As I remember it, she didn't change her course at all until just shortly after the "Celtic Chief" commenced to move.

Q. She did not? A. No.

Q. Well, you were observing the "Arcona" pretty

(Testimony of J. M. Dowsett.)

closely during [2334—1503] the whole of the evening and would have noticed, would you not, if she had been perceptibly widening the distance?

A. Yes.

Q. So you are pretty certain that the "Arcona" did not alter her position farther away from the "Mikahala"?

A. Not to my observation, she didn't.

Q. I understand you, Mr. Dowsett, to say that those lines used by the "Arcona" hung down at a very steep angle into the water, almost dropped down absolutely straight into the water from the same stern of the "Celtic Chief"?

A. Yes, they looked so to me; as if they were almost hanging over her stern there loose.

Q. Pretty nearly straight out of the water?

A. Well, as I told you before, about a few yards away from the vessel where they hit the water.

Q. As a matter of fact, it would be a shorter distance from the hull of the "Arcona" that these wires touched the water than the height of the water up to the place up to the chock on the "Arcona" where these wires were fastened?

A. To better explain it, and if my memory serves me right, the wires came out and formed a curve went out and down to the water.

Mr. WARREN.—(Indicating a convex curve.)

The WITNESS.—Yes, convex curve like that. They weren't coming down or up.

Q. You testified, Mr. Dowsett, that the "Celtic Chief" tried more during the hour or half hour before she came off back and forward than she had



(Testimony of J. M. Dowsett.)

earlier in the evening. As a matter of fact, the "Celtic Chief" was almost rigid earlier in the evening. Was it also true that she was almost rigid on the afternoon of Wednesday when you came out?

A. I say rigid, there was a little more—practically rigid.

Q. Scarcely any movement that was distinguishable?

A. A movement that didn't show any —— to the ship, [2335—1504] as they express it.

Q. Almost solid?

A. I've had experiences—take the "Manchuria's" case. Every time the swell would hit it, she'd thump.

Q. But do you mean to say that the "Celtic Chief" did or did not thump? A. Very little.

Q. Very little?

A. I suppose while I was aboard there she may have three or four times.

Q. What would you feel?

A. A thump. As the swells hit her I know she'd come down with a pound.

Q. More or less like a thrill running through it?

A. Sort of a shock.

Q. And that was practically the same; it was practically the same on Wednesday night from your observation on the "Mikahala"?

A. When I went out there it was dark, we couldn't see anything because the lines hung above the vessel.

Q. You knew, did you not, Mr. Dowsett, that high water was coming in towards morning and that would be certain to move the "Celtic Chief"?

A. Why, the cargo was being taken out with the

(Testimony of J. M. Dowsett.)

idea of getting her off. There were two conditions. I had a feeling that that vessel would come off that night from the fact of my knowing how much cargo they had taken out of her and what they proposed to take out of her and from the fact that high water was due that morning between one and two o'clock. I remember hearing that, and it was my feeling that I'd see something.

Q. All of which is not an answer to my question, Mr. Dowsett. The question that I asked you is this: Isn't it quite possible that the high tide coming in might have been the cause of the starting of the "Celtic Chief"?

A. There was a high tide small twelve hours before, Mr. Olson.

Q. Did you see that?

A. I was out there about that time; just after that as a matter of fact, in the [2336—1505] afternoon.

Q. That was while the tide was going out?

A. The tide was going out and there had been no movement of the vessel, but as to whether those little bumps that were felt aboard the vessel were the result of the tide being up at that particular moment, I don't say. I presume that naturally a foot and a half tide would make a difference with the vessel that was unloading her cargo.

Q. It would make a difference if she were not unloading her cargo

A. Very little, in my opinion.

Q. You don't know, as a matter of fact, whether or not she went in shore further until about noon of Wednesday?

A. I don't know anything about that; no, sir.

(Testimony of J. M. Dowsett.)

Q. If, as a matter of fact, she had been going on shore gradually up until about noon of Wednesday and then for the first time she was kept from going farther in shore, isn't it quite possible that the tide was coming in and would have a tendency to lighten her somewhat even though no cargo were discharged?

A. I rather question that. I don't believe it would make any difference. I don't think a foot and a half would.

Q. And you don't know, as a matter of fact, whether they were able to keep her from going in shore? A. Who?

Q. The "Mauna Kea" and these others.

A. The "Mauna Kea" wasn't there. As I understand, she pulled and broke her three hawsers and then went away. I didn't pay much attention up to that time.

Q. You say you didn't think it necessary to observe whether or not the "Arcona" had changed, any appreciable change in any way at the time that the "Celtic Chief" began to start to come in the way that you have described?

A. I said what? [2337—1506]

Q. That you didn't think it necessary to observe whether or not there was any appreciable change in the "Arcona" at the time the "Celtic Chief" began to be—

A. I don't remember having said that it was not necessary to observe.

Q. Did you?

A. That it was necessary to observe?

Q. Yes.

(Testimony of J. M. Dowsett.)

A. As I said before, my mind and attention were entirely upon what the "Arcona," the "Celtic Chief" and the "Mikahala" were doing.

Just prior to the "Celtic Chief's" coming off.

Q. Now, Mr. Dowsett, isn't this the fact, that the chief reason why you believe that the "Arcona" was doing nothing, was doing no pulling, was because when the "Celtic Chief" began to come off, the "Mikahala" began to go forward, the "Celtic Chief" began to approach the "Arcona," and the "Arcona" didn't change her position at all, showing that she wasn't using her propellers?

A. I could swear that the propellers of the "Arcona" never turned over once.

Q. And that's the reason why you think that she was not exerting any pull?

A. And the fact that her wires hung loose.

Q. Isn't it possible for you to be mistaken about that?

A. If I am mistaken about that I must be mistaken about the rest.

Q. And if, as a matter of fact, you are mistaken about your being able to see the lines of the "Arcona" from the time that her search-light began to play, about a half an hour or an hour before the "Celtic Chief" came off, you may also be mistaken as to whether or not the "Arcona" was pulling; is that true? A. If I might be mistaken, you say?

Q. About actually being able to see those lines, isn't it quite possible that you are also mistaken in saying that the "Arcona" was not doing any pulling?

A. I'm absolutely certain that she wasn't pulling.

(Testimony of J. M. Dowsett.)

Q. There was quite sufficient light for any person to see those lines hanging down while the search-light was playing? A. Sure!

Q. During the hour or half hour preceding the "Celtic Chief's" coming off?

A. All of the time that the search-light was on.

Q. Well, was that plain during the half hour prior to the "Celtic Chief's" coming off?

A. I should judge it was.

Q. Well, was it?

A. Yes, I say it was. It came on after I got outside there.

Q. Isn't it possible that that was playing there for half or three-quarters of an hour and then was not used?

A. No; once it was put on it was kept on, not only while she was moving and coming off. And they continued to take her out to Diamond Head and I thought we'd never be back.

Q. You, from time to time, took careful note of what the "Mikahala" was doing, the strain that she had on her hawsers?

A. I did. I was particular to do that.

Q. You were watching those hawsers?

A. I was.

Q. Just explain how that bridle was attached to the two lines?

A. I don't know how it was attached.

Q. Just explain, as nearly as you observed those. Tell how you observed that they were fastened.

A. I can't say any more than that this arrangement of ropes with a bridle entered the two hawsers at the stern of the "Mikahala."



(Testimony of J. M. Dowsett.)

Q. Is my understanding correct that the bridle was fastened one end on one side of the "Mikahala" and one on the other and that the two hawsers were attached to the bridle?

A. All I know is that a bridle placed in that position is to enable a boat doing towing, as the "Mikahala" was doing, to be able to hold herself in position and answer her own helm and [2339—1508] at the same time not have difficulty with the towing lines.

Q. You have observed that bridle was attached to the two lines? A. Yes.

Q. But you don't remember where those two lines were attached to the bridle?

A. I can't explain the bridle at all. I heard it called a bridle for the first time that night.

Q. Were the two lines fastened to the vessel also?

A. The hawsers, you mean?

Q. Where were the two hawsers?

A. The hawsers came to the side of the vessel.

Q. And the bridle was attached to the hawsers?

A. In some manner, shape or form.

Q. You observed that the bridle came in and was fastened to the starboard side and also that there was a hawser on that side? A. I presume they did.

Q. Did you observe that?

A. I can't say I paid attention to the bridle proposition. I was more or less engrossed in the vessel and the two hawsers but I wasn't looking to this matter of controlling the hawsers.

Q. Is it possible that one of those two hawsers was fastened to the "Celtic Chief" directly and that the

(Testimony of J. M. Dowsett.)

bridle came at one end from the side of the "Mikahala" and that the second hawser was fastened to that bridle? A. I couldn't say.

Q. Is that possible?

A. I don't think it is. I think the two hawsers are fast directly to the ship.

Q. You are willing to say, are you, that you believe that the bridle was only attached to one of those hawsers?

A. I did not say that. I couldn't tell you.

Q. It was made fast to only one of the hawsers?  
[2340—1509]

A. Oh, no, it was attached to both of them.

Q. You did observe that it was attached to both of those hawsers, did you?

A. In some manner, shape, or form.

Q. You observed that? A. Yes.

Q. If Captain Piltz says and has testified that the bridle was not used in connection with one of those hawsers and not used on the other, are you prepared to say he was wrong?

A. No, sir, I'm not. Captain Piltz knows more about it than I do.

Q. In other words, you say the bridle was independent of the hawser?

A. I thought so at the time and my impression is that it was so still.

Q. What do you mean by saying that the lines from the "Mikahala" running out to the "Celtic Chief" had a sag in them?

A. The sag is from the height of the "Celtic Chief's" hull down to the height of the "Mikahala"

(Testimony of J. M. Dowsett.)

and for the distance why there must be a sag in a four-inch manilla rope.

Q. Now, did you say whether or not that line was at times out of the water and stayed out of the way?

A. Yes.

Q. Clear of the water? A. Yes.

Q. How long would it stay out of the water at times? A. What intervals?

Q. How long?

A. Might be a matter of ten or fifteen seconds, might be more; might be twenty seconds, half a minute.

Q. Was it up out of the water at any one time as much as three or four minutes at one time?

A. I couldn't say.

Q. That's a pretty long interval of time?

A. I don't think it's likely to be as long as that.

Q. Did you observe that those lines would sometimes sink into the water?

A. They would go down into the water for quite a distance, not all the way. [2341—1510]

Q. Quite a distance of line?

A. From the "Mikahala" along until it commenced to rise on the side of the "Celtic Chief."

Q. How high is the deck of the "Mikahala" above the water line, approximately?

A. I don't know; 6 or 8 feet.

Q. Is that all?

A. The deck proper, that is, the main deck?

Q. Yes.

A. I shouldn't think it's very much more than that.

Q. Not very much more than 6 or 8 feet?

(Testimony of J. M. Dowsett.)

A. Depends how she's loaded.

Q. That evening.

A. I should say 6 or 8 feet at midships.

Q. How was it at these lines?

A. Might not have been more than 4 or 5 feet.

Q. Do you think it was about 4 or 5 feet?

A. I should say from 4 to 6 feet.

Q. And at times the "Mikahala" having that line only 4 or 6 feet above the water line was able to pull that line out of the water?

A. Maybe I'm wrong on that height, but it would be up out of the water for intervals, you know, a few seconds.

Q. Sometimes as much as half a minute?

A. Not quite as long as that.

Q. Twenty seconds?

A. Yes, 15 or 20 seconds; I say approximately.

Q. Note the time just now. It is now exactly twenty seconds since I last spoke. Do you think that line was out of the water as much as that?

A. That would be the longest.

Q. Do you think it was that length of time?

A. Maybe fifteen seconds.

Q. You think fifteen seconds?      A. Yes.

Q. Pretty sure of that?

A. I'm not absolutely certain, but as near as my memory serves me it would be that long.

Q. Did you note your watch the time when the "Celtic Chief" [2342—1511] came off?

A. By my watch? No, I don't remember looking at my watch.

Q. How do you know, then, it was shortly after

(Testimony of J. M. Dowsett.)

midnight, about fifteen minutes after midnight?

A. From what others said.

Q. At the time? A. At the time.

Q. You are pretty sure it was midnight, later than midnight? A. Yes.

Q. It wasn't as early as 11:30?

A. Oh, no, because we had been up some little time. I remember the time we went down.

Q. When the "Celtic" came off you say she came off in a straight line in the same way, that is, in the line that she was lying on the beach?

A. She came off the same way.

Q. She came off in a straight line? A. Yes.

Q. And headed directly for the "Arcona"?

A. She was probably towards, more towards the "Arcona" than she was toward any other vessel.

Q. Well, did she head more towards the port side or to the starboard side of the "Arcona"?

A. She headed more to the port.

Q. That is more toward the "Arcona"?

A. Yes; the "Mikahala" was standing on that side.

Q. And it was when the "Celtic Chief" had come as near as her own length from the "Arcona" that you first noticed any appreciable change in her course to the other side. Up to that time she had been coming directly ahead?

A. There wasn't much time. It was all over in a minute or two.

Q. That was your observation?

A. She came on a line. They were all pretty busy trying to keep out of the way.



(Testimony of J. M. Dowsett.)

Q. That's what you testified on direct?

A. Yes, that she first came in the direction of the "Arcona" and gradually swerved.

Q. You said on direct that there was no appreciable change in [2343—1512] her course directly ahead until she was about a ship's length and then the "Arcona" swerved off to the side. That's correct?

A. That's correct as I can remember it.

Q. And when she was a ship's length from the "Arcona," just before she began to run off she was pointing directly toward the "Arcona"?

A. A little bit to the port side.

Q. To the port side of the "Arcona."

A. The northward side of the "Arcona."

Q. That's a little to the port?

A. As near as I judge in the minute that elapsed, a few seconds.

Q. And if the "Arcona" hadn't started to move and the "Celtic Chief" had proceeded direct ahead, in other words, if the "Mikahala" had not pulled her off she would have collided with the "Arcona"?

A. She certainly would.

Q. So that would indicate that at that time the "Arcona" was laying practically dead astern?

A. The "Arcona" was laying more astern than previously.

Q. According to that she was on the starboard quarter a little bit to port—

A. Of the "Celtic Chief." A little bit.

Q. Well, now, how does it come, then, that before you noticed any appreciable change in her *direct*,

(Testimony of J. M. Dowsett.)

how do you make out that the "Arcona" was laying in that direction from the "Celtic Chief" a little bit toward on the port side of the "Celtic Chief"? The "Mikahala" was doing what?

A. The "Mikahala" was pulling.

Q. Then the "Celtic Chief," she came forward in a direct line. A. Certainly, she must.

Q. She was going ahead, straight along?

A. Straight; yes, sir.

Q. But she didn't go in a direct straight line?

A. When she first went out it looked apparently straight, then, the continued strain, I presume, of the "Mikahala" on her kept changing her up a little to the northward of the "Arcona." [2344—1513]

Q. But didn't you say that was not distinguishable until the "Celtic Chief" had come within a ship's length of the "Arcona"? A. Yes.

Q. Up to that time she had gone straight ahead?

A. Apparently.

Q. What do you mean she was going at a curve? Do you mean after that or before?

A. From the time she started she probably drew a curve which looked in the direction we were looking as if it were straight for a time, and then as the "Mikahala" changed her course perceptibly, I suppose the strain became greater, and we had the effect of turning the "Celtic Chief."

Q. According to your observation, she went at a straight line but you argue the reason was that she made that in a curve. That's the explanation of your testimony?

A. That's the best explanation. Apparently a

(Testimony of J. M. Dowsett.)

straight line but all the time curving.

Q. Was she, at any time, as near as 15 or 20 feet from the "Arcona"?

A. Well, it looks as if she was within ten feet at one time.

Q. Did you say 15 or 20 yards or 15 or 20 feet?

A. 15 or 20 yards, I said that on direct.

Q. Yes.

A. And that's about as near as I judge she went.

Q. She didn't come within fifteen or twenty feet of her?

A. She may have but I didn't see her.

Q. And you were looking?

A. I was looking, yes.

Q. When, according to your observation, did the "Arcona" first get under way, out to seaward?

A. I couldn't see her start off.

Q. You really don't know when she moved her propellers? A. No.

Mr. OLSON.—That's all.

Mr. WEAVER.—No questions.

Mr. WARREN.—I have no further questions.  
[2345—1514]

**[Testimony of J. R. Macaulay, for Libelants.]**

J. R. MACAULAY, called as a witness on behalf of the Inter-Island Steam Navigation Co., Ltd., and the Matson Navigation Company, Ltd., being duly sworn, testified as follows:

Direct Examination by Mr. L. J. WARREN.

Q. What is your residence, Captain?

A. 814 Green Street.

Q. How long have you resided in this Territory?

(Testimony of J. R. Macaulay.)

A. About twenty-nine years.

Q. What is your age? A. Fifty-seven.

Q. And your occupation?

A. Master mariner. At the present time I am employed by the Territory as pilot, port of Honolulu.

Q. How long have you been pilot of the port of Honolulu? A. Eighteen years and a half, about.

Q. And that, then, was your occupation in December, 1909? A. Territorial pilot.

Q. At the time the "Celtic Chief" went ashore?

A. Yes, sir.

Q. What experience have you had at sea, Captain, in your life? When did your sea experience begin?

A. I started to go to sea when sixteen years of age—forty-two years at sea.

Q. What capacity have you served at sea?

A. From apprentice to master.

Q. When did you receive your master's certificate—license first? A. 1907.

Q. Where? A. Honolulu.

Q. Of what kind of vessels?

A. Unlimited, steam or sail. [2346—1515]

Q. That is, you were not a captain of vessels prior to 1907? A. I was.

Q. How long before 1907 had you been a master?

A. About seventeen years—no, about 27 years master.

Q. What kind of vessels?

A. Steam and sail, both.

Q. Prior to coming to the Territory, where has your sea experience been?

A. Almost all in deep water ships, large American

(Testimony of J. R. Macaulay.)

ships trading all over the world. My first experience at sea was as an apprentice in tea clippers, trading between China, New York and London.

Q. What has been your experience in the handling of vessels and their lines?

A. It has been considerable. I have handled all sorts and classes of vessels in and out of the port of Honolulu.

Q. In towing?

A. In towing and under sail and under their own power, from a sloop to a battleship.

Q. What experience have you had in the salvage of vessels, if any?     A. Considerable.

Q. Will you state your first experience and the circumstances connected with it?

A. My first experience in the neighborhood of Honolulu was the whaling Bark "Gay Head."

Q. Tell us about that.

A. Well, she was anchored in the roadstead for the port of Honolulu and took fire. The flames were issuing right out of her fore hatch when the watchman at the pilot station gave the alarm. I happened to be on duty at that time and he rung up by telephone and told me there [2347—1516] was a vessel on fire off port, so I hastened down, got a boat's crew and put off to the vessel. Whether Brown was sheriff at that time or deputy sheriff, I forgot which. However, he had a fine whale boat and a police crew. He also put off to the vessel; so did the Government tug "Elehu"; she put off to the vessel. Immediately upon my getting on board I spoke to the master of the vessel, and he said that there was not very much



(Testimony of J. R. Macaulay.)

hope for her, as the flames were then coming right out of her fore hatch. Well, I went forward and got the chief officer of the vessel and we unshackled the chain-cable fifteen fathoms to the aft to nor'ward and put a slip-line on the chain-cable with a wooden buoy attached; then when we had that all ready, I went to the captain the second time and I said, "Well, Captain, you have got a number of people on board here from the shore. I should advise calling a meeting of these people in your cabin and see what is best to do to save the vessel." So he did. We went into the cabin and they all had their own ideas about what was best to do, but I suggested that Mr. Brown go right back into port with the whale boat and notify the fire department about the condition.

Q. What was actually done?

A. I suggested that the ship be towed into Honolulu harbor as soon as possible to get within reach of the fire department, and my idea was carried out. Mr. Brown, he went immediately ashore and notified the fire department. [2348—1517] We got the towboat ahead of the ship and towed her right into the harbor and beached her at the end of the Pacific Mail wharf. Inside of a very few minutes there were three lines of hose passed on board that ship and the vessel was saved.

Q. What was your next experience in salvage?

A. I believe my next case was on the British vessel "Dunreggan," off Diamond Head.

Q. There?

A. She was there on the reef, off Diamond Head.

Q. Tell us what your experience was.

(Testimony of J. R. Macaulay.)

A. I think I was in charge of the Government tug "Elehu" and had occasion to tow out one of Mr. Soule's large ships loaded with sugar, bound for Delaware Breakwater. After we towed this ship to sea, it was 20 minutes to high water. This ship was ashore at Diamond Head. The Revenue Cutter "Manning" had a line to her and so did the tug "Fearless"; they were pulling on her all they could, and so I told the engineer to get up to the vessel in despair, that we might be able to assist her, which we did. We got up to this vessel and gave her our line, a brand new nine-inch manila hawser—we passed on board a nine-inch manila hawser, made it fast on board the ship and we started in to pull. In about twenty minutes after we had started pulling the ship floated off, and after she was well clear of the reef, about half a mile or so off, we let go our hawser. So did the "Manning." The tug "Fearless" towed her into Honolulu harbor. [2349—1518]

Q. That was your part in that?

A. That was my part in regard to the "Dunreggan."

Q. What was your next experience?

A. As near as I can recollect, I believe the next case was the Japanese steamer "Chiyosa Maru"; she was stranded on the reef just a little to the eastward of the channel leading into Honolulu harbor.

Q. What part did you have in that?

A. I went off in a whale boat from the station and found her stranded upon the reef. I hailed the captain and told him that I would return immediately

(Testimony of J. R. Macaulay.)

to port for assistance, which I did. Immediately on getting back to the station, I notified the agents of the vessel, and, in fact, all parties concerned, and returned to the steamer. After I had got alongside, I spoke to the captain, and I asked him if he wished me to come aboard and assist him. He said he did, so I went on board. The captain, he couldn't speak very much English, but a gentleman, I suppose he was the purser of the boat, he talked pretty fair English, and he acted as interpreter right through the whole case. Through the interpreter we conversed, and I gave him the best advice that I knew of. With the aid of the Inter-Island steamer and also the "Matson," we rescued that steamer from total destruction. She was a single bottom vessel, too.

Q. Who directed the operations?

A. Well, the master of the vessel was really in charge, but it seemed to me that when I would suggest any move to [2350—1519] be made to the purser, that he would interpret my advice to the master and the master, as a rule, took my advice generally.

Q. How many Inter-Island and other vessels were there?

A. Well, I really forget—so long ago, I really forget; I wouldn't dare say at this time.

Q. How long was the "Chiyosa Maru" ashore?

A. She was ashore from about daylight in the morning until away in the afternoon, sometime between two and four o'clock, sometime there in the afternoon we got her off.

Q. In what way was she ashore?

(Testimony of J. R. Macaulay.)

A. Head-on, heading about north and south, as near as I can remember.

Q. Was there any other salving agencies other than the steamers pulling?

A. The "Manning"; the "Manning," she was pulling—the Revenue-Cutter "Manning."

Q. Were there any anchors of any kind?

A. Yes.

Q. What? A. One small kedge anchor used.

Q. Were there any anchors used by the steamers—pulling steamers? A. I believe there was.

Q. How far on shore was the "Chiyosa Maru"?

A. Well, she was somewhat—she was probably two to three hundred feet clean on the reef; that is, the outer ledge.

Q. What is her length? A. I can't say.

Q. Was she on her own length?

A. About her own length, not any more.

Q. What experience have you had, if any, in determining the tensile strength of lines—cables?

A. Considerable. [2351—1520]

Q. Will you answer that a little more fully—not giving particular instances, but the extent more or less of your experience?

A. What kind of cables do you refer to?

Q. Well, steel hawsers and manila.

A. Iron and steel cables are manufactured out of different grades of material. For instance, take a piece of wire: if it is manufactured out of Swedish iron, it can't be compared with the wire that is manufactured out of improved cast steel, so there is different grades of wire the same as there is with rope

(Testimony of J. R. Macaulay.)

which are not manufactured out of the same class of material.

Q. How do you determine the tensile strength of wire lines? A. By putting each under a test.

Q. If you were given the size of a steel hawser, can you determine without a test what the tensile strength of that line is or ought to be?

A. Well, I can take the manufacturers' test for it; I can assume that the manufacturers' test is about correct. As far as I know, there is only one place in Honolulu where they can test chain, wire or rope cables, or iron, or steel, I believe. That is at the College of Hawaii. They have a testing machine there; there is none other in Honolulu that I know of.

Q. Apart from actually testing material by putting a strain on it, is there any way known to seamen how they determine approximately, at least, the tensile strength of a wire line when they are given its size? A. Oh, yes. [2352—1521]

Q. How is that done?

A. A seafaring man that has had experience will, as a rule, test the breaking strain of a line, either wire rope or any other kind, by pressure to his foot—very often done on board the ship. The man's own judgment will tell when there is sufficient strain.

Q. Well, that is while it is under strain?

A. Well, it is under strain, of course. When it is not under strain, you will have to look for tables to find the tensile strength of cables.

Q. And the same for manila ropes?

A. The same for manila ropes.

Q. Now, have you any experience in judging ten-



(Testimony of J. R. Macaulay.)

sile strength of lines by looking at them? A. Yes.

Q. Not while they are under strain necessarily, but simply as they lie?

A. As they appear to me, I have a very good idea of the strain they can stand before they break.

Q. What is that idea based on?

A. On my experience in seeing lines carried away by overstraining.

Q. Now, about anchors and ground tackles, what experience have you had in judging the weight of anchors by their appearance and size and their effectiveness as ground tackle?

A. Well, I have had the experience of my lifetime at sea, more especially as a pilot out of this port. Mostly every vessel that we bring down here, we have to use anchors, and I can pretty nearly tell how much chain it will take to hold the ship under a certain pressure, when taking into consideration [2353—1522] the holding ground in that locality. Of course, where there is a mud bottom, a blue mud bottom, it won't require so much chain to hold the ship as it will if there is a sandy bottom. It all depends upon the nature of the bottom, how much chain it will take to hold the vessel, before the anchor drops.

Q. Why does it take more chain?

A. Where the anchor is placed into the sand it does not hold so well, consequently it takes more chain.

Q. What is the advantage of more chain?

A. Well, there is more weight and it makes a difference in the angle.

Q. Have you studied navigation? A. I have.

(Testimony of J. R. Macaulay.)

Q. In books?      A. In books.

Q. Theoretically?      A. Yes.

Q. Where did you study navigation?

A. In school; on board ships.

Q. School of navigation?

A. Common school; public school.

Q. And what books of navigation after school?

A. Bowdick's Epitome.

Q. Have you had any experience in the use of instruments of navigation?      A. I have.

Q. Such as the compass and sextant?      A. Yes.

Q. Transit?

A. Never used a transit in my life.

Q. And the making of calculations with these instruments?      A. Yes.

Q. Are you acquainted with the different makes of compasses and sextants?

A. I am, pretty well. [2354—1523]

Q. Now, Captain, did you have anything to do with the British ship "Celtic Chief" when she was stranded off the harbor in December, 1909?

A. I did.

Q. Will you tell us what was your first action with the vessel on that occasion?

A. On December the 5th, as near as I can remember, 1909, I was next in turn to go on duty at the pilot station. Captain Lorenzen was on duty at the time the "Celtic Chief" was reported from Diamond Head station early in the afternoon of that day. Captain Lorenzen notified me of the fact that the ship was reported to the eastward of Diamond Head early in the afternoon and there was also a schooner

(Testimony of J. R. Macaulay.)

coming, so I hastened down to the pilot station, ready to take my turn. Upon that day there was very little wind, very light air, and it took them almost up to dark before they got around Diamond Head.

Q. The "Celtic Chief"?

A. Both the schooner and the "Celtic Chief." I was second in turn; Lorenzen was first; so we concluded it would be dark before they came anywhere near the harbor, so we took with us in the pilot boat a red and, if I remember correctly, a green lantern. One light we placed on the outer buoy of the channel leading into Honolulu harbor. The second light we placed on the bell buoy; it was at that time; there is no bell buoy there now; so we placed a light on the bell buoy and then proceeded to the approaching vessels. Captain Lorenzen being first in turn hailed the first vessel. I asked them if they needed a pilot. [2355—1524]

Q. She was the first vessel?

A. The schooner, I really forget her name, though. The reply was that they did not require a pilot and I went on. I went on to the second vessel, which proved to be the "Celtic Chief." I hailed the "Celtic Chief"; got no reply. Hailed the "Celtic Chief" the second time and advised them to keep the ship offshore because she was approaching the reef; it was too close in to keep her off. I got no reply at all. However, we always carry a hook line in our pilot boat and I ordered the man in the bow of the pilot boat to hook on to the side of the ship, and he hooked on his hook somewhere about the main rigging. At this time I saw two men look over the rail,

(Testimony of J. R. Macaulay.)

right over where we were in the pilot boat, and I said, "Pass a ladder, so as I can get on board." Well, they did; they passed a ladder over, and I sung out, "Let me know when you have that ladder fast." She was then going for the reef very rapidly, so I didn't wait for the ladder to be secured very well, but I climbed up over the side; got over the rail as soon as I could and went to the captain. I told him that he was too close inshore and had too much sail on the vessel. There was quite a breeze sprung up then, about a half an hour before this, and I advised the captain to wear the ship.

Q. Then, at this point, will you tell us what you mean by "wearing" a ship, so as to get that in the record?

A. There is two ways of turning a ship around; one is by staying her and the other is by wearing her. To "stay" a ship, she is supposed to be sailing on the wind, close to the wind, and to put the wheel hard down, and the ship will come up to the wind and the sails will shift. [2356—1525] When you get the wind on six to eight points on the bow, calm the yards and brace her up sharp while you are on the other tack.

Q. That is in tacking and coming about?

A. Yes, and coming about.

Q. Now, "wearing" is what?

A. Now, "wearing" is having them hard up, secure in the after yard; let the ship pave off before the wind; as she paves off, calm the yards to suit the wind until she is close hauled on the other tack.

Q. Why did you advise wearing the ship on this occasion?

(Testimony of J. R. Macaulay.)

A. Because she was too close to the shore to steer; it was very doubtful in my mind whether she would steer; there is no doubt about a ship wearing; they always wear if there is any wind.

Q. Now, what was done?

A. He didn't take my advice; the master didn't take my advice. He said that there would be no trouble at all in bringing the ship to an anchor, the sail could be taken off the ship very quickly, and I thought—I asked him if his anchors were all clear; he said they were. I asked him if he had a lead line handy; he said he had. I was continually taking soundings. He said that he didn't anticipate any trouble at all in bringing the ship to an anchor. He said that he saw the schooner ahead of them there and that the schooner had no trouble in coming to an anchor and I said—I told him, "Captain, it is very easy to take sails off a schooner; it takes time to take sails off a ship like this; there is a big difference between a schooner and this ship." [2357—1526]

Q. What happened next?

A. Well, he seemed determined to come to an anchor. "Well," says I, "if you are determined to come to an anchor, I will assist you all I can, and I will advise you right now not to delay in taking sail off the vessel," which he did.

Q. That is, he didn't delay?

A. Oh, there was no delay.

Q. He started right in to take sail off?

A. We got practically all the sails off the mizzen; got the fore main topgallant sail off, the main and the inner jib. At this time I directed the helmsmen to keep her off, that is, head her offshore. My reason



(Testimony of J. R. Macaulay.)

for giving that order was to kill as much time as possible before we came to the anchorage off the harbor. There seemed to be quite a delay in getting the fore topsail off the ship; it was at this time very dark.

Q. About what time of day was it?

A. Well, as near as I can remember, I boarded the ship somewhere about seven o'clock in the evening.

Q. Right at this point, will you tell us what was the direction and force of the wind at that time?

A. The wind was blowing northeast; a fair breeze.

Q. Well, go on.

A. The barometer was low; the barometer was 29 something; I forget; it was below 30.

Q. What happened next?

A. I asked the lead man to give me a casting of the lead. We were then abreast of the channel. I gave her a casting and found nine fathoms, just a little to the westward of the channel.

Q. That is the channel to Honolulu harbor?

A. Honolulu harbor. I brought her to and proceeded to take the main topsail down. We took the main topsail and I ordered the jibs hauled down, but they were not hauled down. After taking the main topsail, of course, the headway was very [2358—1527] much reduced, and I gave the order to let go the starboard anchor. It wasn't let go.

Mr. OLSON.—How is that?

WITNESS.—It wasn't let go, but a minute or so afterward I hailed the fo'castle again and I said, "Why don't you let go that starboard anchor?" No reply. I hailed the fo'castle three times. The last time I hailed the fo'castle, I said, "If you don't let

(Testimony of J. R. Macaulay.)

go the starboard anchor, the ship will be on the reef.” The reply was that he couldn’t let go the starboard anchor, the starboard anchor was jammed. In a minute I said to the captain, “Why don’t they lower away that fore topsail? They were ordered to lower that fore topsail.” The captain said, “I will run forward and let go that fore topsail myself,” and he did. At this time the mate said the port anchor was all clear and he could let go the port anchor. At this time we were partly on the reef.

Mr. OLSON.—Partly on?

WITNESS.—Partly on the reef. I said, “For God’s sake, let go the port anchor. Why didn’t you say so before?” He let go the port anchor.

Mr. WARREN.—Q. Now, right at this point, Captain, what was the direction and position of the “Celtic Chief” with respect to the reef?

A. Well, the “Celtic Chief” at this time was heading to the northeast; her head was right up in the reef; the main topsail was to the back.

Q. How did she lie with respect to the reef?

A. About—we were heading to the northeast and the reef tends, say, 45 degrees; it formed a little curve in the bight here off Honolulu harbor. The general trend of the reef is east and west, so she would be angling quarterly onto the reef. After we let go the port anchor and gave her [2359—1528] considerable chain, the mate informed me then the starboard anchor was all clear, and I said, “Let go.” He let go the starboard anchor at this time, we riding to our anchors.

Q. That means what, “riding to the anchor”?

A. That they were holding the ship in that posi-

(Testimony of J. R. Macaulay.)

tion. I asked the second officer to bring his lead line aft to the taffrail. He found by the lead on the port quarter, four fathoms and a quarter, 26 feet. I said to the captain, "We are dangerously close to that reef, but if this wind holds—"

Mr. OLSON.—What is that?

WITNESS.—"We had a good, strong northeast wind as it is now, during the night she may not touch the reef."

Mr. WARREN.—Q. She may not touch?

A. She may not touch, but she is dangerously close to it. A few minutes afterwards we could feel her touch.

Q. Where? A. The bottom.

Q. What part of the ship? A. Her quarter.

Q. What part of her starboard quarter?

A. Her keel; in there her keel would touch first, the lowest part of the vessel. We could feel her keel touch the bottom, so we started in to burn blue lights for assistance. Of course, Lorenzen took my boat; he went home in the pilot-boat so I was left with no boat.

Q. That was when?

A. When I boarded the vessel, he returned to the station, so I had no means of getting ashore unless I went ashore in a ship's boat. Well, we lay there and every once in a while we could feel her just touch the bottom slightly. [2360—1529]

Q. Now, I will ask you right here about what hour was it that she first touched?

A. I should say it was about 9 o'clock, as near as I can remember; about nine she first touched.

(Testimony of J. R. Macaulay.)

Q. And it was about that time you burnt your blue lights? A. Yes, shortly afterwards.

Q. How frequently did she touch after that?

A. Very seldom, not many times and very light.

Q. How long did that situation continue?

A. Well, shortly after nine o'clock the wind died down to a calm; there was no wind at all to speak of; it was a perfect calm, and the swell coming in toward the south inclined her in toward the reef.

Q. In what way? A. Broadside.

Q. With her stern in what direction?

A. Her stern to the westward and her bow to the eastward. When she took that position, having the port anchor down, I was very much afraid that it might pierce her bottom.

Q. The anchor?

A. The port anchor, so I advised the captain to take up that port anchor, as it was doing more harm than good.

Q. Why?

A. Because she was in a position then that was liable to pierce her bottom, so we picked up the port anchor and took it up to the hawse. At this time the captain being tired, he went down below and laid down. I told him that I would look out and watch the ship and let him know if there was any change. So I remained on the poop with the second officer, and about 2 o'clock in the morning there was quite a nice little land breeze sprung up. There was a nice [2361—1530] little land breeze sprung up, which gave me great encouragement, and I advised the second officer to call all hands immediately and tell the

(Testimony of J. R. Macaulay.)

chief officer that I wanted to see him specially. The chief officer came on the poop and I told him, "Now, sir, we have a nice little breeze offshore here, off the land; my idea is to get sail on the vessel and try, if possible, to make for the open sea; get away from here." We loosed and set the sixth topsail on the ship. "Have the jibs loose, ready for running up; when we get the sixth topsail set, we will tack the fore topsail to help head the ship off shore." So after he understood my intentions, he proceeded accordingly and we set the sixth topsail and tacked the fore topsail. I stationed the second officer at the lead at the ship's taffrail to let me know which way the ship was moving by the lead. By holding the lead on the bottom, it is very sensitive; you can tell immediately which way the vessel is moving. I stationed a man at the wheel to steer the ship, and all hands were at the windlass ready to heave away the starboard anchor when so ordered.

Q. That, then, was the only anchor down?

A. That was the only anchor down. I had before that taken up the port anchor. The ship seemed to gather headway and her bow fell off at least four points of the compass.

Q. Heading then in what way?

A. To the eastward, southeast.

Q. On or offshore?

A. Offshore. And when the ship would move ahead, the second officer would inform me that she was moving ahead by the lead. As she moved ahead, gradually, very slightly, I would hail the fo'castle. [2362—1531] The chief officer was there. I would ask him how his chain-cable was, so



(Testimony of J. R. Macaulay.)

as I could heave in the slack, and he kept heaving in the slack as the ship forged ahead, and she kept doing so. As we approached the anchor—as she approached the anchor this land breeze died out and it became a flat calm, but still with the momentum of the ship she was still going ahead, and the second officer was there, stationed at the lead. We came to the anchor and we hove up the anchor, and just as we were almost ready to fill up the fore topsail, the second officer reported she stopped her headway; and she stopped her headway for about five or ten minutes, and then he reported that she was running sternway. I immediately ordered the starboard anchor to be let go and to give her chain. We lowered away our topsail and clewed up the lower topsail, and we found the ship in about the same position as she was before.

Q. That was before this land breeze?

A. Before the land breeze had sprung up. As a rule, the current generally tends to the westward.

Q. At that point? A. At all times.

Q. At that place?

A. At that place, and, of course, the ship had this current to contend with, otherwise we would have got clear.

Q. Do you know the precise direction and the approximate speed of that current?

A. From one to three knots.

Q. And its direction is how with respect to the shore? A. To the westward.

Q. And how with respect to the shore?

A. Goes right along the shore until it approaches

(Testimony of J. R. Macaulay.)

Kaena Point, the [2363—1532] extreme westerly point, then it tends to the nor'west.

Q. Now, having in that way gotten back to practically the same position that you have just stated, what next occurred?

A. We burnt more blue lights; in fact, I believe we burnt all the blue lights in the ship to attract the people ashore, but we got no response at all. At this time it was approaching daylight.

Q. Well, now, that is by the time you got back to where you were before?

A. Yes, it was practically daylight then.

Q. About what hour would you say it was that she first touched bottom? A. About nine o'clock.

Q. About nine o'clock? A. About nine o'clock.

Mr. OLSON.—Q. In the evening or morning?

WITNESS.—A. In the evening.

Mr. OLSON.—Q. That is Sunday?

WITNESS.—A. Sunday night.

Mr. WARREN.—Q. Having come back to the first position, did that mean touching bottom again?

A. Oh, yes.

Q. How was she then with respect to the bottom, along toward daylight?

A. She was almost broadside on the reef.

Q. How hard on the reef?

A. Not hard; touching it occasionally.

Q. What part of her? A. All over.

Q. Fore and aft?

A. Well, more forward than aft; more forward than aft; she was just on the outer edge of the reef. The reef in that locality runs in ledges.

(Testimony of J. R. Macaulay.)

Q. In what?

A. Ledges, yes. The outer ledge raised up very abruptly, then it goes along on a plane, with [2364—1533] very little grade for, say, about a thousand feet; then you come to another little ledge of coral from two to four feet high, then than runs along on a plane.

Q. You know that of your own knowledge as to this particular spot?

A. I do. So the ship was on the outer ledge, at the very edge of it the whole length of the vessel, I don't remember. A portion of her was on the reef.

Q. Do you know the depth of the water at that time and place? A. Yes.

Q. What was it?

A. Four fathoms and a quarter, that is, when we sounded by the lead.

Q. About what time did you make that sounding, what condition of the tide?

A. That I am not prepared to say; I don't know what stage of the tide it was.

Q. Can you give about what hour that sounding was made?

A. That was made—that sounding was made—

Q. I hand you, Captain, a copy of the hours and heights of tides, taken from the tide tables of the Department of Commerce and Labor. I will ask you, if you can, by looking at these tables, whether, by looking at this table, you could tell us about what the tide was on early Monday morning?

Mr. OLSON.—I am willing to have Sunday—the records of Sunday, Monday and Tuesday, added to

(Testimony of J. R. Macaulay.)

the table already placed in evidence at the offer of Mr. Weaver of the Miller Salvage Co., from the Coast and Geodetic Survey records, showing the tide tables in Honolulu for the period in question.

Mr. WEAVER.—On behalf of the Miller Salvage Co., I have no objection to the introduction of the table.

Mr. WARREN.—I think that reference can be made afterwards, for the reason that this table shows simply Wednesday and Thursday. [2365—1534]

Mr. WARREN.—Q. That sounding was made at about what time?

A. Somewhere about 8 o'clock, between eight and nine o'clock.

Q. On what day? A. Sunday night.

Q. Then you say that it was about daylight when the ship got back to where she started from?

A. Before daylight, because we burnt additional blue lights. However, we did get back to our prior position.

Q. Now, what position was the vessel in from that time on? What changes in position, if any, until the first assistance arrived?

A. Her position, as near as I can remember, was about heading northeast—was heading northeast, her stern southwest.

Q. About what angle to shore, to the reef?

A. About ninety degrees.

Q. Was her stern fast to the east or west of her bow?

Mr. OLSON.—I submit that if the ship is at an

(Testimony of J. R. Macaulay.)

angle of 90 degrees, she is on at right angles.

Mr. WARREN.—That is what I would like to get more clear.

WITNESS.—A. The ship's head was heading northeast and her stern was southwest, and the reef runs along to east and west in that locality.

Q. I would like to have you make a drawing at this time of the position of the ship as she lay out there.

(Witness draws.)

A. We will say that is Honolulu lighthouse.

Q. Will you please mark that "lighthouse"?

A. (Witness writes.) Lighthouse. Now the reef runs along that way.

(Witness draws.)

Q. Now, Captain, you have now drawn the lighthouse and marked it "lighthouse," and have drawn the line of the reef from the lighthouse; mark it "reef."

A. (Witness writes.) Reef. Now, the "Celtic Chief," didn't remain [2366—1535] in the same position all the time. So different, it is night. She was in different positions. At what time do you want her position?

Q. I think it would be well for you to draw first the position she was in when she first touched.

Mr. OLSON.—I submit it is unimportant how she first touched; it has nothing to do with her final salvage. The important thing is the position she was in when she really became fast on the reef.

The COURT.—Objection overruled.

Mr. WARREN.—Q. I would suggest that the cap-



(Testimony of J. R. Macaulay.)

tain draw in dotted lines the "Celtic Chief" as she lay—her position when she first touched, numbering it "1."

The COURT.—I can understand it perfectly well and take it down in my notes.

Mr. WARREN.—I think a graphical illustration of the angle of the boat with respect to the reef is a help.

The COURT.—I think it will.

Mr. WARREN.—Q. Draw in dotted lines the position of the "Celtic Chief" at the time she first touched, her direction and position with reference to the reef.

Mr. OLSON.—Have north, east, south and west indicated by a cross.

WITNESS.—(Draws.)

Mr. WARREN.—Q. Will you write the word "channel" where the channel is?

A. (Witness writes.) Channel. Now, do you want the ship's position when she first touched? (Witness draws.) As near as I can figure out, about there (indicating on paper before him).

Q. Now, mark that "C. C. 1."

A. (Witness writes.) (Marks position "C. C. One.")

Q. I understand from your position, that, having lain in that position for a time, and the shore wind sprung [2367—1536] up, you went out, lost the wind and came back to approximately this same position (indicating)? A. About the same.

Q. About what time was it that you got back to that same position? A. About two o'clock.

(Testimony of J. R. Macaulay.)

Q. Monday morning?

A. Yes, Monday morning, and this land breeze sprung up and we got six topsails and the jib.

Q. Now, having got back to that position, what was her position now, at the time the first assistance arrived, stating first, please, what was the first vessel there—vessel to appear on the scene?

A. The first vessel to appear in the morning was Young Brothers' gasoline launch "Hukihuki," I believe it was.

Q. About what hour?

A. Shortly after daylight. Shortly after daylight, must have been. Well, I should say about six o'clock; somewhere around there.

Q. Now, and the next?

A. The next was the tug "Intrepid."

Q. About what hour?

A. The tug "Intrepid," she got there, let me see—oh, shortly after the gasoline launch; she must have got there about a half an hour or so after.

Q. About 6:30? A. Somewhere around there.

Q. Now, Captain, will you draw on this plan the position of the ship at the time the "Intrepid" arrived?

A. (Witness draws.) One cuts into the other.

Q. Draw that in heavier lines, in solid lines.

A. (Witness draws.) That is about it.

Q. Now, mark that "2"?

A. (Witness writes.) That is about her position when the tug came.

Q. Will you indicate on the map the direction of the current to which you have referred by a line, I

(Testimony of J. R. Macaulay.)

mean a dotted line and an arrow?

A. (Witness draws.) [2368—1537]

Q. Mark that "current," please.

A. (Witness writes.)

Q. Now, you have spoken of a swell. Will you indicate the direction of the swell by an arrow?

A. (Witness draws.)

Q. Mark that "swell." A. (Witness writes.)

Q. This line marked "reef" does not indicate the shore line?

A. This is the outer ledge (indicating to paper).

Q. Outer ledge? A. Yes.

Q. How did the—what did the "Hukihuki" do, Captain, upon arriving?

A. The "Hukihuki" took a line on her port quarter, four-inch, brand-new manilla line, right on the port quarter.

Q. I will ask you to indicate on this map the shore line, although it may not be possible to get it on this map by scale, to indicate the back of the reef, the shore line. A. Well, the shore line—

Q. You will have to bring it forward to the reef to indicate it, its apparent direction.

A. (Witness draws.)

Q. Mark that "shore"—"shore line."

A. (Witness writes.)

Q. Now, what was done by the "Intrepid" upon her arrival?

A. The "Intrepid" gave us a line on the starboard quarter.

Q. What kind of a line?

A. A manila hawser with a wire spring attached,

(Testimony of J. R. Macaulay.)

having an eye spliced into the end.

Q. What was done with it?

A. We made it fast to the starboard after bitts on board the "Celtic Chief."

Q. What length was that line?

A. The towing line, the manila hawser, with a wire attached, was in the neighborhood of from three to four hundred feet long, somewhere around there.

Q. Now, what did the "Intrepid" do?

A. She started in towing astern full speed, as near as I could judge from her efforts; pulling on the ship full speed. [2369—1538]

Q. In what direction with respect to a line drawn from stem to stern of the ship?

A. The tug "Intrepid" would be heading, I should judge, about south by east by compass, that is, by magnetic bearings.

Q. Will you indicate on this map the direction of the line of the "Intrepid"? A. (Witness draws.)

Q. South by east, you say?

A. South by east, that is about the way she was pulling.

Q. Mark that "Intrepid"?

A. (Witness writes.)

Q. Now, Captain, going back to the time, about 9 o'clock Sunday night, when the "Celtic Chief" was in the position marked "One," describe her movement, how she worked to get into the position marked "2." Describe it.

A. She worked around this way (indicating).

Q. Bow swinging from what direction to what direction?

(Testimony of J. R. Macaulay.)

A. From the east to the north, in that direction (indicating).

Q. Until she got in position Number "2"?

A. Until she got in position Number 2.

Q. Do you know how and why she moved that way?      A. Yes.

Q. Will you please state?

A. Yes, on account of the current and the swells.

Q. Current and swells?

A. Inclined her to move in that direction, yes.

Q. What way was the current striking her?

A. The current was striking her on the starboard side.

Q. Yes.

A. And the swell was striking her also on the starboard side, but more quarterly than the current was, naturally she would incline to move this way (indicating). [2370—1539]

Q. Why?

A. Well, the "Intrepid" having hold of her.

Q. I mean previous to the time the "Intrepid" got ahold of her.

A. Well, she didn't move very much previous. It took a long time to get around this way. You see, we had very little chain out on that starboard anchor and with the swell and the current striking her on the starboard bow, inclined her around in that direction.

Q. On her starboard bow?

A. On her starboard bow.

Q. What held her stern?      A. The reef.

Q. How hard aground was she astern?



(Testimony of J. R. Macaulay.)

A. Well, when we were actually on the reef, that is, solid on the reef, there was 19 feet at her quarter.

Q. Stern?

A. Yes; and sixteen feet forward at her bow forward, then we were solid on the reef.

Q. Now, you said her bow was held by her anchor?

A. Well, we had an anchor there.

Q. Did that anchor hold?

A. Yes; very little change when the tug "Intrepid" took ahold of her, and her having this position—position two.

Q. She had position two when the "Intrepid" took hold?

A. When the "Intrepid" took hold that was her position at that time; that was at daylight in the morning. Now, after both of these boats took hold of her, I found that it would be a large advantage to the ship to get her at right angles and take the sea or swell.

Q. At right angles to the reef?

A. At right angles to the reef.

Q. To get the sea or swell how?

A. Right astern, so we took up the starboard anchor, then she got into this position, what we would call position Number 3.

Q. Will you draw position Number 3?

A. (Witness draws.) [2371—1540]

Q. Mark it with the figure "3."

A. (Witness writes.) Now, when she was heading in that position, she was headed about north, 10 degrees west. I remember that distinctly; that is by her compass—magnetic bearing.

(Testimony of J. R. Macaulay.)

Q. Now, Captain, going back to the time she took position one, and the interval between position one and position two, describe how she came to assume position two from position one. What force or tendencies were there to move her to assume position two?

Mr. OLSON.—I object to the question on the ground that it has already been asked and answered.

Mr. WARREN.—I would like to ask the witness what he means. In having stated that the ship moved under the influence of the swell and current, to what time does your testimony relate, changing from position one to two, or from two to three?

A. The ship, after taking the reef the second time, that is, after we made the failure of trying to get her off by her sail, she gradually kept swinging around to the nor'ward and westward until she eventually got this position. Well, number two, that was her second position; that was the position she was in about the time that the "Hukihuki" and the "Intrepid" took ahold of her.

Q. Now, do you understand that you have not yet testified what made her assume position two from position one?

A. The current and the swell made her assume this position two.

Q. What made her assume position three?

A. By taking up that starboard anchor, and the "Intrepid" and the "Hukihuki" pulling on her in this direction made her take up position three, which was of a big aid to the vessel.

Q. That was brought about by the "Intrepid"?

(Testimony of J. R. Macaulay.)

A. The "Hukihuki" and the "Intrepid." [2372—1541]

Q. Now, during the time that the ship was changing her position from one to two, how were her anchors? A. The anchor was on the starboard bow.

Q. What effect, if any, did that have on the movement of the ship?

A. It checked her somewhat.

Q. In what way?

A. It checked her from going broadside onto the reef, and it checked her from going farther in.

Q. Going broadside on on which side of the reef?

A. On the port.

Q. What agencies were there to go broadside on the port side during the interval between positions one and two?

A. The swell, partly.

Q. How would the swell tend to make her go broadside port?

A. Because the swell was running in toward the reef from the south-southeast, in that direction. It was really the swell that made her take the reef with no wind.

Q. The swell struck her on which side as she lay in position one? A. On the starboard side.

Q. How, then, could the swell swing her starboard side out toward the swell?

A. It didn't, but her bow—a ship drawing less forward than she is aft—the light part of the ship.

Q. How was the stern?

A. The stern—she was drawing 21 feet aft and she was drawing 20 feet 6 inches forward when she was

(Testimony of J. R. Macaulay.)

afloat. Naturally her stern would take first. When her stern took the reef first and her bow being afloat, her bow would naturally go farther to the west, to the reef, until it took the bottom. [2373—1542]

Q. Now, will you indicate by a dotted line, beginning from "Celtic Chief" position number one, the movement of the bow toward positions two and three—by an arrow, indicating the movement?

Mr. OLSON.—I submit it is absolutely unnecessary. The very fact that she swung around from one to two and then to three is sufficient.

The COURT.—I will allow the question.

Mr. WARREN.—Q. Then, Captain, did she move clockwise or counter clockwise in moving from position one to two and from two to three?

A. Counter clockwise, to the left.

Q. Having assumed position three, what was the depth of the water forward and what aft?

A. Nineteen feet of water on her starboard quarter at the deck of the mizzen rigging and about sixteen feet forward at the bow.

Q. Now, Captain, in position three, how did the swell strike her?

A. Slightly on the starboard quarter.

Q. What tendency did that have on the vessel?

A. It had a tendency to heave her in farther on the reef.

Q. In what way? A. To the nor'ward.

Q. To the northward? A. Yes, sir.

Q. And to get her in what position on the reef?

(Testimony of J. R. Macaulay.)

A. To get her in the position that the swell was running.

Q. That would be what?

A. Right in the same position that she holds now.

Q. Number three?

A. Yes. It would incline her a little to the westward.

Q. And to what effect?

A. She would go farther in upon the reef, heading about as she is at number three. [2374—1543]

Q. Now, that is with or without vessels pulling?

A. With or without vessels pulling?

Q. Yes.

A. She would be inclined, according to these swells, to go farther in on the reef.

Q. In the absence of any pulling vessels, do I understand that that would be the same?

Mr. OLSON.—I object, as the witness has already been asked that question and has answered.

The COURT.—Objection overruled.

The WITNESS.—A. If there was no assistance at all, it was only a matter of time, the swell would take her up on the reef.

Q. She moved?

A. Moving with the swell, it would cause her to go directly ahead, but she would incline a little to the westward with the current.

Q. And then what position would she be likely to assume?

A. Eventually she would go broadside on to the reef.

Q. What was her tendency and motion at the time



(Testimony of J. R. Macaulay.)

the "Intrepid" arrived, before the "Intrepid" made fast?

A. She was gradually swinging her bow to the nor'ward and inclined to go farther in on the reef.

Q. What inclination was there as to her stern?

A. The whole body of the ship was going in farther on the reef gradually and swinging gradually to the nor'ward before the "Intrepid" and the "Hukihuki" arrived. At that time, fortunately, the weather was very good; it was fine weather, but there was quite a nasty swell. The swell kept heaving in, heaving her in all the time, and with her starboard anchor put down, it, of course, checked her some; but when the "Intrepid" took hold and the "Hukihuki" took ahold, they checked that swing. They held her stern for the time being until we got real good assistance, and while they held her there, I thought it [2375—1544] would be a benefit to get that starboard anchor up and let her swing around so she would take the swell as much as possible on the stern. My idea was to keep her from getting broadside on the reef.

Q. How would the operation of taking up her anchor tend to keep her from going broadside on the reef?

Mr. OLSON.—I submit the question has been asked and answered, and object on that ground.

The COURT.—I am not sure that he has answered this question. I allow the question.

The WITNESS.—A. By taking up the starboard anchor at this particular time when the tug "Intrepid" and the "Hukihuki" was holding her stern,

(Testimony of J. R. Macaulay.)

by raising the starboard anchor it allowed her bow to swing more.

Mr. WARREN.—Q. To position three?

A. To position three. Previous to that the anchor was an obstruction; it held her from swinging into that position, so to relieve her of that pressure, I picked it up and hove it up to the hawse-pipe, so she gradually swung around into this position number three, and I think that was about as comfortable a position as she could have on the reef.

Q. Captain, with the bow held by the anchor in position two, the swell striking the ship on the starboard side, on her starboard side, what prevented her stern from swinging in on the reef?

Mr. OLSON.—I object to the question as already asked and answered.

The COURT.—I overrule the objection.

(Question read.)

The WITNESS.—A. The tug “Intrepid.”

Mr. WARREN.—Q. Before the “Intrepid” took hold?

A. I didn't take up the starboard anchor. [2376—1545]

Q. I say, with that anchor down and the swell striking on her starboard side, before the “Intrepid” took hold, what prevented the stern from going in toward the reef?

A. She was drawing twenty-one feet aft; she was drawing twenty feet six inches forward, and consequently her keel would have more hold on her bow than the bottom.

Mr. WARREN.—I think I would like at this time

(Testimony of J. R. Macaulay.)

to offer in evidence the diagram which Captain Macaulay has drawn.

The COURT.—It will be received in evidence.

(Marked Libellants' Exhibit "F," Inter-Island Steam Navigation Company, Ltd., and Matson Navigation Co., Ltd., Captain Macaulay's testimony.)

Mr. WARREN.—Q. Going back to the time the "Intrepid" came out, Captain, and before she made fast, was there any conversation between the "Intrepid" and the ship as to arrangements about taking hold or pulling? A. I don't remember of any.

Q. About how long was it—how much time elapsed between the time the "Intrepid" arrived and the time she had her line on?

A. It was a very short time, because we were very anxious to get hold of that line. The exact time, I don't know; a few minutes, I suppose.

Q. When the "Intrepid" had put her line on and began pulling, what was the position and condition of her line between the two vessels?

A. The condition of her line was good. The position was about south by east, approximately.

Q. I mean as to the line being taut, or otherwise?

A. She pulled very vigorously; she seemed to me to pull for all she was worth when the line was made fast; right from the start she pulled hard. [2377—1546]

Q. How far above water was her line?

A. You mean at the hole?

Q. Yes.

A. The line formed a curve between the ship and

(Testimony of J. R. Macaulay.)

the tugboat; to a certain extent, it sagged a little in the middle.

Q. Did it touch the water?

A. Occasionally, with the swell.

Q. What was the next vessel to arrive on the scene after the "Intrepid"?

A. One of the Inter-Island boats, which one I am not sure of; it was either the "Mauna Kea" or the "Mikahala"—I am not positive which one it was. I think it was the "Mauna Kea"; I am not sure of that; it was either one of the two.

Q. Before we leave the "Intrepid," under whose directions was the "Intrepid" operating—her captain or the ship's captain?

A. The master of the "Celtic Chief" was in charge of his own vessel, and all that was done was done with his sanction. I merely acted as his adviser.

Q. Were any instructions given to the "Intrepid" as to how to pull?

A. I hardly think so; I don't remember that there was any instructions necessary at that time.

Q. After the "Intrepid" took hold and before any other vessel afterwards took hold, was there any change in the position of the "Celtic Chief" on the reef?

A. After the "Intrepid" took hold?

Q. After the "Intrepid" took hold and before the next steamer took hold?

A. Yes, there was.

Q. What was that change?

A. Her bow swung more to the north.

Q. Making her position on the reef altered in what respect?

A. Much easier. [2378—1547]

Q. As to direction with relation to the reef?

(Testimony of J. R. Macaulay.)

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(Testimony of J. R. Macaulay.)

A. Well, then she was heading almost at right angles to the reef.

Q. In that position, how did the swell strike her?

A. On the—

Mr. OLSON.—I object to the question on the ground that it has already been asked and answered.

The COURT.—Objection overruled.

Mr. OLSON.—Captain Macaulay drew the position of the ship and he was asked what influence that was. Its influence was to drive it farther on the reef. Now, I submit that counsel has no right to go into that question again.

Mr. WARREN.—I withdraw my question.

The COURT.—Very well.

Mr. WARREN.—Q. Any change in the position of the "Intrepid" and the position—I will withdraw that. What kind of a bottom was there, Captain, where the "Celtic Chief" was ashore?

A. Sand and coral.

Q. Well, in what relative proportions and parts? How was it made up?

A. Well, there was considerable more sand than there was coral; it would be a great big patch of sand, then a hummock of coral sticking out here and there in patches, all in that neighborhood.

Q. Do you know precisely what the nature of the bottom was right in that vicinity under the ship?

A. I do.

Q. What was it? A. Sand and coral.

Q. How do you know there was coral under her?

A. By the crushing coral discoloring the water and showing a milky surface on the surface of the

(Testimony of J. R. Macaulay.)

water, which was positive proof it was coral. [2379—1548]

Q. How so? A. Beg pardon?

Q. How so? Why does that indicate that there was coral?

A. The lime being in the coral and being crushed up by the friction of the ship would cause it to come to the surface.

Q. Would there be any discoloration of the water if she were on sand alone?

A. I don't believe there would.

Q. Now, as to the swell: How high was it, Captain? How large a swell would you say was running?

Mr. OLSON.—At what time?

Mr. WARREN.—Q. Monday morning, about the time that the "Intrepid" took hold?

A. By the time the "Intrepid" took hold, I should say that at times the swell never exceeded eight feet from the surface.

Q. At times? A. At times.

Q. Just what do you mean by that?

A. Well, there was times when the swell came in heavier than other times; there would be a smooth spell of it; an hour or two there would be practically very little swell, then, without any warning there would be three heavier swells coming in, much heavier than the average swell during the day.

Q. What would you say would be the height of the largest swells that would come in that morning?

A. I don't believe they would exceed eight feet.

Q. How did the condition of the sea and swell of that morning compare with the condition of the sea

(Testimony of J. R. Macaulay.)  
of the previous evening?

Mr. OLSON.—I object to the question on the ground that it is immaterial.

The COURT.—Objection overruled.

Mr. OLSON.—I object further on the ground that it does not appear at what time he means by saying "previous evening."

Mr. WARREN.—Any time the previous evening, [2380—1549] between six and nine o'clock?

Mr. OLSON.—I object further on the ground that it is incompetent, irrelevant and immaterial.

The COURT.—I think it has some bearing.

Mr. WARREN.—I will reframe my question.

Q. How did the condition of the sea Monday morning, about the time the "Intrepid" took hold, compare with the condition of the sea the previous evening between seven and nine o'clock?

Mr. OLSON.—I make the same objection.

The COURT.—Same ruling.

The WITNESS.—A. The previous evening between seven and nine o'clock there was an ordinary trade wind blowing, naturally the sea would run in the direction the wind was blowing to; that would be a little off the land. That sea continued until the trade winds died out during the fore part of the night. The wind died out, consequently the sea did; then it became a dead calm.

Q. About what time did it become a calm?

A. About ten o'clock.

Q. Sunday night?

A. Yes; then the wind died out, naturally the southerly swell came in about that time toward the

(Testimony of J. R. Macaulay.)

land. That is about the time she got dangerously close to the reef. At two o'clock in the morning that southerly swell was still running in toward the land, but there was a small land breeze came at that time, about two o'clock in the morning; that was the time we tried to get off into the open sea by setting sail on the ship, but the current and the swell was too much for the land breeze, consequently we couldn't get the ship off by the aid of the wind.

Q. How did the condition of the sea change from that time on until—

Mr. OLSON.—I object to the question on the ground that there is no evidence in the record showing that the condition did change. [2381—1550]

Mr. WARREN.—Q. Was there any change in the condition of the sea from then till morning?

A. Very little, if any.

Q. About what time did the “Mauna Kea” arrive on the scene?

A. I didn't take notes of the exact time of the arrival of any of those steamers. I was—during the time I was on board the “Celtic Chief” I was here, there and everywhere, doing my utmost to rescue the vessel; I had no opportunity to take the time.

Q. Give it as near as you can.

A. Well, some time in the forenoon the “Mauna Kea” came to our assistance; may have been between ten or eleven o'clock; I am not positive about the exact time.

Q. What did the “Mauna Kea” do on arriving at the scene? A. She give us a hawser.

Q. What size and kind?



(Testimony of J. R. Macaulay.)

A. Well, I didn't measure the hawser, but it looked to me like a twelve-inch hawser, brand new—seemed to me to be right out of the coil.

Q. What was done with it?

A. We took it in on board on the port quarter and we put in parcelling on the mizzenmast. Then we took two or three turns of that hawser around the mizzen and then two half hitches, and had a long end; must have been eight or ten feet long, which we lashed with two reef yards, then we parceled the hawser in the quarter chock and we were all fast.

Q. What did the "Mauna Kea" then do?

A. She started in to pull.

Q. Describe her operations in that respect.

A. Well, she straightened out that hawser and pulled pretty hard. In fact, she pulled so hard that it closed up the two hitches, right close up to the mizzenmast, and was rendering the original round turn, rendering them around and drawing them around until the long end that was lashed hauled up close to the mizzenmast and became a great [2382—1551] bunch. The only way that I can explain that that could be done was, it being a brand new hawser and not being stretched, when she pulled so hard that it stretched out that hawser and made it so much smaller, which slacked up those lashings, consequently it all went into a bunch, right at the mizzenmast when she pulled for all that she could. The result was that the hawser broke in the quarter chock.

Q. How did she do that?

A. By actual pulling.

(Testimony of J. R. Macaulay.)

Q. How was she moving or working when she broke it?

A. The "Mauna Kea" was heading southward, maybe a little to westward or south, very little, when she was pulling.

Q. Well, do you know what broke the line?

A. The strain, the actual strain broke the line, broke the line in the quarter chock.

Q. Did you say in the chock?

A. Broke in the quarter chock.

Q. What was then done?

A. We ran a messenger and got that line aboard the second time. We then secured it to the mizzenmast by using great big sheets of parcelling, and in addition to the parcelling we put strips of wood on the mizzenmast, and we took as many round turns as we could from the pin rail down to the mast on the deck. We had it filled up with turns of this big hawser and lashed it the same as we did before.

Q. About what time of day *that* that hawser broke that you have stated?

A. It seems to me—well, I don't remember what time it was, but it was several hours after the "Mauna Kea" came.

Q. You think hours?

A. I think hours; it seems to me; I am not positive about that, I can't remember any time.

Q. After her line was made fast the second time, what did she do?

A. She went ahead after we reported the line fast; she went ahead, it seemed to [2383—1552] me, full speed. I don't know whether she was going full

(Testimony of J. R. Macaulay.)

speed or not, but she looked to me as if she was going full speed and she burst her line the second time and almost took the mizzenmast out of the ship. She dented that steel mast. A person would not believe it unless they actually saw the dent in that steel mast; it formed a ring, and it left that mast in a condition that any surveyor would never allow that ship to go to sea with that mizzenmast.

Mr. OLSON.—I move to strike the last part of the answer; the witness has not shown his qualifications to pass an opinion.

The COURT.—I sustain the objection.

The WITNESS.—Your Honor, will you allow me the privilege? I am acting general surveyor of the American Bureau—agent and surveyor for the American Bureau of Shipping, New York. I am also acting for the Bureau of Veritas, Paris. I hold a diploma from the Bureau of Veritas and I also hold a license from the American Bureau of Shipping, New York.

The COURT.—Apart from this, I take his statement as a prudent captain would regard it, not as a surveyor. I withdraw my ruling and hold the captain competent.

Mr. WARREN.—Q. Captain, how did the "Mauna Kea" break her line that second time?

A. I believe that the "Mauna Kea" broke the line the second time by a very quick and rapid pull, not a steady pull, but what wreckers call in salvage cases, a jump—jump her off. [2384—1553]

Q. Now, in your experience as a navigator, mariner, salvor, what can you say as to the good or

(Testimony of J. R. Macaulay.)

bad seamanship of that kind of a maneuver, under the circumstances?

A. Well, I consider that by the actions of the "Mauna Kea" that they were justified in doing as they did. The sudden jump might have started her off the reef with the great power that that steamer had, but there was always fear of breaking her hawser in using that jump.

Q. Was the "Celtic Chief" affected in any way by the action of the sea other than the mere tendency to throw her on the reef? A. She was.

Q. How?

Mr. OLSON.—I object on the ground that that question has already been asked and answered.

The COURT.—Objection overruled.

The WITNESS.—A. Yes.

Mr. WARREN.—Q. Will you describe that?

A. The sea had the tendency of raising her and dropping her on the reef, or an up and down motion, what you might call it in addition to the other tendency.

Q. Can you describe that motion more particularly?

A. Well, when a heavy sea would come and strike the ship, she would naturally rise and bump, and shake her masts and rigging and her whole hull would tremble for the time being and then she would settle down to normal.

Q. Where on the ship would this feeling be most severe?

A. All over the ship; in fact, I had an idea that she was striking heavier forward than she was aft

(Testimony of J. R. Macaulay.)

and I went forward on the bow of the ship to find out where she was striking. It is a pretty hard matter to locate the exact spot where she strikes the severest; it is a hard matter; you know that she is [2385—1554] pounding on the rocks, but the exact portion of the ship that is striking, it is a hard matter to locate.

Q. In view of your experience, Captain, as a mariner, and in navigation, salvage and so on, would you consider that the "Celtic Chief" was in a position of danger at the time the "Intrepid" took hold of her?

Mr. OLSON.—I am willing to admit that she was in danger; any ship ashore is in danger.

Mr. WARREN.—Q. What would be her danger? What danger would you say she was in?

A. She was in danger of going broadside on the reef, getting bilged and becoming a total wreck.

Q. Under the conditions prevailing, and your experience, to which frequent reference has been made, your knowledge of the conditions as they were there, how long, in your judgment, could the "Celtic Chief" have maintained the position she was in when the "Intrepid" took hold, that is, at that time, if the "Intrepid" had not taken hold?

Mr. OLSON.—I object; it is impossible for the witness to answer that question, and no proper foundation has been laid, showing the witness' qualifications to answer that question.

The COURT.—Before ruling on this point, I am going to ask Captain Macaulay, have you ever observed vessels in similar positions to this before



(Testimony of J. R. Macaulay.)

when they finally did go broadside on the reef?

The WITNESS.—A. No, your Honor, I have not.

The COURT.—I allow the question.

The WITNESS.—A. (Question read.) I don't quite understand that question; it seems to me it is a little bit mixed.

Mr. WARREN.—Well, I will reframe it. Q. In view of your experience as a mariner and in navigation, handling [2386—1555] of vessels and in salvaging, and in view of your statement that the “Celtic Chief” was in danger eventually of going broadside, and drawing your attention now to the point of time when the “Intrepid” arrived, now if the “Intrepid” had not taken hold and no other vessels had taken hold, how long in your judgment would it have been before the ship would have gone broadside?

Mr. OLSON.—Same objection.

The COURT.—Same ruling.

The WITNESS.—A. It is impossible for me to tell what time it would take a ship to be broadside on the reef; no man could tell the time it would take.

Mr. WARREN.—Q. I am not asking for any number of hours, but would it be a matter of hours, days or weeks?

Mr. OLSON.—I submit that the witness has shown absolutely that he cannot tell. I submit the question has already been asked and answered; again, it is incompetent, irrelevant and immaterial.

The COURT.—I allow the question.

The WITNESS.—A. Well, no man can tell approximately or in a general way; could any man tell whether it would be a long time or a short time?

(Testimony of J. R. Macaulay.)

Mr. WARREN.—Q. Yes; under those conditions at that time?

Mr. OLSON.—I submit the same objection; it is impossible for any human being to tell whether it would take a long or a short time.

The COURT.—I will allow the question.

The WITNESS.—A. There is no living man can tell the time it would take for that ship to go broadside on the reef previous to the "Intrepid" or any other vessel coming to her assistance. [2387—1556]

Mr. WARREN.—Q. Not previous—if there had been no ships?

A. If there had been no ships no man can tell how long before that ship would be broadside on the reef, but to the best of my judgment—

Mr. OLSON.—I object to the witness stating what he thinks about the matter, it having been shown by his own testimony that he is not qualified to give any statement on that point.

The COURT.—Captain Macaulay said no man can tell. When you said (addressing witness) no man can tell what time it would take, you mean what?

The WITNESS.—A. I mean by saying that no living man can tell the exact time it would take for that ship to go broadside on to the reef from the time that she first touched bottom, but it was only a matter of time on account of the current and the swell until she would be broadside upon the reef. That time I cannot tell, but eventually she would become broadside to the reef; might have been that afternoon; might have been the next day; it might have been a month, I cannot tell, I have no idea.

(Testimony of J. R. Macaulay.)

No person can, but—

Mr. OLSON.—I am not going to let the witness answer any further. I submit the witness can't, and my objection is interposed to his answer.

The COURT.—Objection overruled.

Mr. OLSON.—I ask at this point, before the witness is permitted to go any further, to be permitted to go into the witness' qualifications.

Mr. WARREN.—I submit the time has passed.

The COURT.—And I so rule.

Mr. OLSON.—Am I to be permitted to test the qualifications of the witness before he is permitted to testify? It will be the first time, I think, in the [2388—1557] history of litigation in this court that counsel was denied the privilege of asking as to the qualifications of a witness before he gives an opinion on a point. I have never waived my right to cross-examine this witness on his qualifications.

The COURT.—It would certainly not be unfair to allow Mr. Olson to ask any question he may desire.

Mr. WARREN.—The point is that the witness has been interrupted in the middle of an answer.

The COURT.—This to me is a very difficult question, and has been all through. I will allow Mr. Olson to ask questions.

Cross-examination by Mr. OLSON.

Q. Captain Macaulay, when you say that it might be the same day or the next day or a month later, do you mean by that that any one of those times would naturally be within the range of possibility?

A. That is correct.

(Testimony of J. R. Macaulay.)

Q. And, as a matter of fact, Captain Macaulay, assuming that you are an expert mariner and familiar with navigation in all its phases through many years of experience, and assuming that another seaman of equal ability, equal experience and equal ability to judge, if the two of you were put out there to take a look at that vessel, it would be quite in the range of possibility that he might say one thing and you say another thing?

Mr. WARREN.—I object to it, put this witness and another out there to take a look.

Mr. OLSON.—I will change my question to meet that objection.

Q. Assuming that there had been another such expert as yourself, with equal ability, equal experience, equal capacity to judge, this man had been out there with you making the same observations, it would be quite within [2389—1558] the range of possibility, would it not, that if you were both asked this question, how long it would take for the "Celtic Chief" to go broadside on the reef under those conditions there? It would be quite within the range of possibility, would it not, that he might, if it was necessary that he must answer, say one thing and you say another, for the simple reason that no man can tell? A. No; I don't agree with you.

Q. You think you would both say the same thing?

A. I think if another man, with the same ability, same knowledge of the location, and took all the facts into consideration, they would both arrive at the same conclusion.

Q. And yet you say it might take a month?

(Testimony of J. R. Macaulay.)

A. I say no living man can tell exact time for that ship to be broadside on the reef.

Q. Now, then, only approximate the time, Captain Macaulay; you would then be called upon to say—wouldn't you say whether it would be nearer one time or another, isn't that so? If you were only asked to approximate, to state what in your judgment would be the result, you would be called upon to state, as near as you could, what time it would be nearer—a month or a day—that is what you would be called upon to state?

A. I would be inclined not to answer that question because I would not dare answer a question that would be guesswork or anything like that. I am here to tell the truth as best I can, to the best of my recollection and I would decline to answer a question of that kind because I don't know.

Q. And this would be the same with this other man?

A. I would say about the same. As I said before, [2390—1559] taking the elements into consideration, the swell and the current, the effect would be to put that ship broadside on the reef; that would be the end of it.

Q. About the time, you couldn't say?

A. I couldn't say. There in the case of the barkentine "Helga"; she took the reef farther on. Before daylight in the morning we saw her from the pilot station; she took the reef and she was heading right in for the breakers; she was on the reef before eight o'clock that morning, that ship was broadside on the reef and the seas were washing over. It took



(Testimony of J. R. Macaulay.)

no time at all for that ship to be a total wreck, and it took a few hours for that barkentine to wash her hatches, and she was a total wreck. She was a wooden vessel, quite different to the "Celtic Chief."

Q. And the sea was washing over the "Helga"?

A. Making a clean sweep and washing over her.

Q. A much heavier one?

A. Not so much heavier. No man can tell how long it will take for a ship to go broadside on the reef; that I know for a fact will be the outcome of a case of that kind eventually.

Q. As a matter of fact, Captain Macaulay, if the "Helga" had happened to strike on the reef where the "Celtic Chief" did, it would be quite possible that the "Helga" would not have gone broadside for a considerable length of time?

A. The "Helga" would have gone broadside on the reef.

Q. Just the same?

A. The "Helga" was drawing much less water than the "Celtic Chief." The "Helga" was a much lighter draft and went on the reef and became a total wreck. [2391—1560]

Mr. OLSON.—Now, I submit the captain has shown clearly his position in the matter. I submit Captain Macaulay has answered as any reasonable man must be assumed to answer a similar question, and I submit that it shows clearly that it is impossible for the captain to give any answer that would be of any value to the Court. I renew my objection to the question.

The COURT.—It appears clear that Captain Ma-

(Testimony of J. R. Macaulay.)

caulay couldn't say whether it would be a long time or a short time, and he couldn't tell whether it would be next day, next week or next month. That being so, I don't think we can expect anything more.

Mr. OLSON.—As I understand, my objection now renewed is sustained.

The COURT.—Yes.

Direct Examination by Mr. WARREN (Continued).

Q. What would be the effect of the ship if she got broadside?

A. The effect upon the ship would be that she would be liable to get bilged.

Q. In what way?

A. Her bottom pierced by the coral.

Q. What would cause that?

A. The motion of the ship, by the surging of the sea, leaning her over toward the reef, and coming in contact with sharp coral would be liable to pierce a hole in her bottom.

Q. What would be the effect on the ship, if, even though having a hole pierced in her, her weight should get on her bilge on the shore side?

A. Well, the effect would be the same. In addition, it would bend her plates or frame and after the ship would start to leak, she would become waterlogged. [2392—1561]

Q. If the "Intrepid" had not taken hold of the "Celtic Chief," would it have been good or bad seamanship to have taken in her anchor?

Mr. OLSON.—Whose anchor?

Mr. WARREN.—Q. The "Celtic Chief," at the time you did?

(Testimony of J. R. Macaulay.)

A. It would be bad seamanship to interfere with that anchor until we received assistance at the stern to hold the ship in position.

Q. Why bad for her?

A. Because it had a tendency to hold the ship from going much farther up on the reef, and if the ship was inclined to go broadside upon the reef, we could easily slack away the chain on the starboard anchor, which would relieve her from that strain. If we found that she was going broadside, we could use a kedge anchor and a boat anchor that we had on the ship to help her some from going broadside, so I think it would be bad judgment on any person's part to interfere with that starboard anchor until we received assistance on the stern.

Q. And you considered the assistance of the "Intrepid" sufficient to justify taking that anchor up?

A. I certainly did.

Q. After the "Mauna Kea" broke her hawser the second time, what were her further operations?

A. As near as I could recollect, after the "Mauna Kea" broke her hawser the second time, I believe she returned to port.

Q. What time did she break it the second time?

A. I have no recollection of dates or hours. I couldn't say positively what time it was, but it seems to me it was somewhere in the afternoon she broke it the second time.

Q. Monday afternoon?      A. I believe so. [2393.—1562]

Q. The second time she broke it?

A. The second time.

(Testimony of J. R. Macaulay.)

Q. When did the "Helene" come out?

A. As I stated before, I have no recollection, or made no effort to keep the time of the arrival or departure of any of the Inter-Island steamers.

Q. Well, what date?

A. I say I have no record of the time of the arrival of any of the Inter-Island boats, or their departure from the scene of the wreck of the vessel, but I have a statement here in my pocket, a report to the Superintendent of Public Works. (Witness takes out a piece of paper.) That is my report to the Superintendent—official report—of the "Celtic Chief" case, and it may assist the Court and assist you all if I be permitted to read it.

Q. Who wrote it? A. I did myself, personally.

Q. And how soon after the "Celtic Chief" incident?

A. The following day after I came ashore I reported to the Superintendent of Public Works.

Q. You say that was part of your duty?

A. That was my duty.

Mr. WARREN.—Then if the witness desires to refresh his memory from the memorandum, it is allowed?

Mr. OLSON.—It is not necessary. I have no objection to tell the witness it has already been testified that the "Helene" came out there on Tuesday morning.

Mr. WARREN.—Counsel is willing now to admit that?

Mr. OLSON.—I am admitting that the "Helene" arrived there on Tuesday morning.

(Testimony of J. R. Macaulay.)

Mr. WARREN.—Q. For your information, on the statement of counsel that testimony of witnesses in this case heretofore has been that the "Mauna Kea" left the scene on Tuesday morning in time to go on her run to Hilo, her [2394—1563] usual run, and that the "Helene" then came out and took her line, that being Tuesday morning, can you tell whether or not the last break of the "Mauna Kea's" line was Monday afternoon or Tuesday morning?

A. I can't remember.

Q. To the best of your recollection, she broke it twice?

A. She broke it twice. I do remember this in connection with the "Mauna Kea": I believe it was Captain Haglund that told me that we will have to let the "Mauna Kea" go on account of her carrying mail to Hawaii. Now, that was shortly before she was supposed to sail. I don't know whether it was Monday afternoon or Tuesday morning, but that was the reason that the "Mauna Kea" was taken away, because she was on the regular run and had this contract to carry the mail. That was the reason why the "Mauna Kea" was taken off.

Mr. OLSON.—I would like to have that contract of carrying mail produced.

Mr. WARREN.—She is under contract and would incur a large penalty if she failed.

Mr. OLSON.—I would like to have what Captain Haglund told the witness stricken.

Mr. WARREN.—That may go out.

The COURT.—Very well, the part regarding what



(Testimony of J. R. Macaulay.)

Captain Haglund told the witness as to carrying the mail may go out.

Mr. OLSON.—Well, I would like to see the mail contract.

Mr. WARREN.—All right, I will have the mail contract brought into court.

Mr. WARREN.—Q. Well, Captain, about the “Mikahala”; can you recall what her operations were?

A. The “Mikahala” came out and gave us a line on the starboard quarter. [2395—1564]

Q. Do you remember what day she came out?

A. The same day as the “Mauna Kea.”

Q. About how long after?

A. Well, they came out pretty nearly about the same time, as near as I can remember.

Q. How was her line made fast to the “Celtic Chief”?

A. It was made fast through the quarter chock to strong iron bitts on the starboard side, right at the break of the poop.

Q. Could you tell us the size of the line?

A. It looked to me like an eight-inch hawser, manilla.

Q. What did the “Mikahala” then do?

A. As soon as we had the line fast the “Mikahala” started to pull.

Q. In what direction from the ship?

A. The bearing of the “Mikahala” from the ship, as near as I can remember, was about southeast by south, magnetic; that is, by our compass.

Q. How many points would you say from the line

(Testimony of J. R. Macaulay.)

of the "Celtic Chief," that is, a line extended from the bow of the "Celtic Chief" along her keel to her stern, how many points would the "Mikahala" be?

A. About three points.

Q. And do you know approximately the length of her line?

A. Yes; about, I should judge about 400 feet—thereabouts.

Q. How long did the "Mikahala" pull?

A. She pulled continuously from the time she made fast till the ship was floated.

Q. What can you say as to the position of her line with relation to the water?

A. She kept an equal strain, a good steady strain on the line. At low water, of course, she didn't pull as hard as she did at high water; at high water or the approaching high water, she pulled for all she was worth, as near as I can say. [2396—1565]

Q. Do you know whether or not the "Mikahala" had any anchor? A. Yes; she had.

Q. Where was the position of that anchor with reference to the "Mikahala"?

A. Her anchor was leading out ahead. As near as I could see, her anchor was on a line with the keel of the boat, almost right out ahead, straight out ahead.

Q. Were there any other vessels on Monday other than the "Mikahala" and the "Helene" pulling on the ship? A. Yes; the "Intrepid."

Q. How long did the "Intrepid" remain there pulling?

A. She remained until the "Arcona" decided to

(Testimony of J. R. Macaulay.)

take the position that the tug had, as he considered it the best for his ship, so we ordered the tug to let go its hawser and make room for this more powerful ship.

Q. Who ordered?

A. The master of the "Celtic Chief."

Q. Now, up to that time, what kind of a—what was the condition of the "Intrepid's" lines as to pulling?

A. In good order.

Q. And its position?

A. He had a splendid position.

Q. I mean of the line itself with respect to the water?

A. Well, the "Intrepid," while she was alone, she pulled extra hard, as near as I can say, but after the arrival of the "Mikahala," it seemed to me that she didn't pull so hard, kind of eased up.

Q. Were there any other vessels? I withdraw that. On Tuesday, any other vessels than those you have testified to pulling, allowing now for the substitution of the "Helene" for the "Mauna Kea"?

A. Well, the "Likelike" came afterwards, but when she did come I can't tell; whether she came the same day as the "Helene" or not, I can't remember, but the "Likelike" came afterward. [2397—1566]

Q. Including now the "Likelike" and taking all the time that the ship was ashore, there would be from Tuesday, the "Helene," "Mikahala," the "Intrepid"; Wednesday, the "Helene," the "Mikahala," the "Arcona," the "Intrepid," up to the time her line was cut, and the "Likelike"; were there any

(Testimony of J. R. Macaulay.)

other vessels outside of those pulling?

A. No, there were no other vessels pulling.

### REPORTER'S CERTIFICATE.

I, Geo. R. Clark, do hereby certify that I did, on the 21st day of September, A. D. 1911, carefully and accurately take down and report in shorthand and afterwards transcribe by typewriting upon the foregoing sheets, hereunto attached, the foregoing portion of the testimony of J. R. Macaulay on direct examination in the above-entitled cause.

Dated Honolulu, Hawaii, September 21st, A. D. 1911.

GEO. R. CLARK,  
Reporter. [2398—1567]

Friday, September 22, 1911.

Mr. WARREN.—I think I'll ask you, at this time, Captain, to make a drawing showing the relative positions of the "Celtic Chief," the "Mauna Kea," the "Helene," not "Mauna Kea," "Mikahala," "Arcona," and "Likelike," as they were on Wednesday night, say, if you know. Do you know that?

A. I do. (Witness draws.) "Celtic Chief."

Q. You have now drawn and marked the "Celtic Chief" on this paper, Captain?

A. Yes, sir, that is the position of the "Celtic Chief."

Q. You will now draw the position of the "Mikahala"; all this relating to Wednesday night from seven o'clock on.

(Witness draws.)

A. This is not scale at all. I give an approximate

(Testimony of J. R. Macaulay.)

idea as near as I can to the actual position of the vessel "Mikahala" fast to the "Celtic Chief." "Mikahala."

Q. How many lines did the "Mikahala" have? You have drawn the "Mikahala"; will you please write the name "Mikahala"?

(Witness writes.)

Q. Now, Captain, how many lines did the "Mikahala" have on Wednesday night?

A. She had two lines.

Q. Well, can you show, make the drawing indicate. That first line you have drawn in the center?

A. This is the line of the direction of the vessel.

Q. The center line between the two lines, between the two hawsers, is not intended as a hawser but to indicate the direction of the vessel?

A. The direction of the vessel.

Q. Now, will you draw the position—

A. There was a spring attached to this, a short spring attached to this hawser.

Q. Which hawser? [2399—1568]

A. This starboard, quarter hawser.

Q. Of the "Mikahala"?

A. Of the "Mikahala." There was a small spring attached to it.

Q. Will you draw that? (Witness draws.)

Q. Now, what vessel lay next to starboard of the "Mikahala"? A. "Intrepid."

Q. I'm speaking now of Wednesday night.

A. Oh, Wednesday night. "Arcona."

Q. Will you please draw the position of the "Arcona"?



(Testimony of J. R. Macaulay.)

A. (Witness draws.) Somewhere about there.

(Indicating.)

Q. Will you please mark that "Arcona"?

(Witness writes.)

Q. Now, how many lines did the "Mikahala" have to the "Celtic Chief"? The "Arcona."

A. She had two lines.

Q. Will you please draw those as they were connected?

(Witness draws.)

A. About like that. I think this "Celtic Chief" should be just turned a little bit more that way, just a little bit.

Mr. OLSON.—I consent to the captain's erasing the "Celtic Chief's" position.

Mr. WARREN.—It is agreed that the witness may erase the "Celtic Chief" as drawn and put its position correctly.

A. By placing these other two vessels there I could see the "Celtic Chief" should be just about like that.

(Witness draws.) There, that's nearer it now.

Mr. OLSON.—Mark that "Celtic Chief."

(Witness writes.)

Mr. WARREN.—Now, what vessel lay next to starboard of the "Arcona"?

A. Well, say that is the [2400—1569] bridge of the poop, that's about where the line was fast to the "Arcona," and the same on the other side of the "Arcona" here on heavy bitts to both sides; that is about it.

Q. Now, will you state what vessel the next to the starboard of the "Arcona"? A. The "Helene."

(Testimony of J. R. Macaulay.)

Q. Will you draw the position of the "Helene"?  
(Witness draws.)

Q. Will you mark that "Helene"?  
(Witness writes.)

Q. Now, that being done, how many lines did the "Helene" have to the "Celtic Chief"?

A. She had one line, as near as I can remember.

Q. Will you draw that as it was connected?

A. Fast to the amidships.

Q. The straight line which you have drawn across the stern of the "Celtic Chief" indicates the break of the poop, does it?

A. Yes, indicates the break of the poop; this line.  
(Indicating.) These two over here and the same on the other side.

Q. Now, the two dots which you have placed on each side of the "Celtic Chief" just forward of the break of the poop, indicate the bitts?

A. The bitts, iron bitts.

Q. Iron bitts of the "Celtic Chief"?

A. Yes, sir.

Q. What vessel lay next to starboard of the "Helene"? A. The "Mikahala."

Q. Will you draw that vessel, please, and mark her "Likelike"?

(Witness draws.)

Q. The "Likelike" being drawn, how many lines did she [2401—1570] have to the "Celtic Chief"?

A. As near as I can remember she had one line.

Q. Will you draw that as it was connected?

A. That indicates the "Likelike's" mainmast.  
(Placing dot.)

Q. You have now drawn a line from dot on the

(Testimony of J. R. Macaulay.)

"Likelike" indicating her mainmast to what points?

A. The bitts on the port quarter of the "Celtic Chief."

Q. Immediately forward of the break of the poop?

A. Immediately forward of the break of the poop.

Q. Now, about anchors, Captain. You have stated that the "Mikahala" had an anchor out. Will you draw the position and direction of her anchor?

(Witness draws.)

Q. That being done, I'll ask you if you know whether or not the "Arcona" had any anchor or anchors out Wednesday night? A. She did.

Q. Will you please indicate on the plan the direction and position of the "Arcona's" anchor? Oh, how many did she have? A. She had one anchor.

Q. Will you please indicate the position and direction of that anchor as it lay that night?

(Witness draws.)

A. About like that.

Q. Now, do you know whether or not the "Helene" had any anchors out? A. Yes, she did.

Q. How many? A. I can't tell, I do not know.

Q. Do you know? A. I know she had one.

Q. Do you know the position and direction of that one? A. Yes, sir.

Q. Will you draw it, please?

(Witness draws.)

A. About in that direction, but I believe that the [2402—1571] "Helene" had two anchors. I couldn't see on that side.

Q. On which side?

A. On the starboard bow of the "Helene," but it's my impression that she had a second anchor down,

(Testimony of J. R. Macaulay.)

but which direction it was I'm not able to say.

Q. So that you are not prepared to say?

A. I wouldn't attempt to draw that second anchor because I don't know. I'm under the impression she did have a starboard anchor, but this one I'm positive.

Q. That is the port anchor?

A. That is the port anchor.

Q. The "Likelike," did she have any anchor out?

A. Yes, she had an anchor.

Q. Will you draw the direction, location of that?  
(Witness draws.)

A. Somewhere about like that.

Q. Now, Captain, you have drawn on this sketch the anchors and positions of anchors of the "Mikahala," "Arcona," one anchor of the "Helene," and the anchor of the "Likelike," have you?

A. Yes, sir.

Q. Now, have you any knowledge of an anchor which was connected with the salvage operations of the ship, belonging to Captain Miller?      A. I have.

Q. Miller Salvage Company?

A. Miller Salvage Co.

Q. Now, I'll ask you, Captain, before I ask you to draw the position of that, I'll ask you some questions about the anchor. Do you know what time that anchor of the Miller Salvage Company was brought out to the "Celtic Chief"?

A. As near as I can remember, the anchor was brought out to the "Celtic Chief" Tuesday evening after dark.

Q. By whom?

(Testimony of J. R. Macaulay.)

A. Now, I'm not positive about dates. [2403—1572]

Q. I say by whom?

A. I'd like to ask privilege of the Court to read a small memorandum. I will state it's merely a memorandum and will show you that I have had no opportunity to take any notes of time. It was a continuous day from Saturday or Sunday night until Tuesday morning. I was so busily engaged in trying to save the vessel that I took no note of the time at all. It's a continuous day of mental anxiety for me from sunrise until sunset, so I have no correct knowledge of what time any vessel came or left. The important items regarding time I do remember very well, but when Captain Miller came with his anchor, the time I couldn't tell. I know it was after dark. I believe it was on Tuesday.

Q. Well, now, who brought it out, Captain?

A. It was brought out by the steamer "James Makee" and she was towed out there to the position of the steamer, the motor boat "Mokolii."

Q. Where did the "Helene" lie with that anchor or to what point did she go on coming out that night with the anchor?

A. She went around the stern of the "Celtic Chief" and came up on our port quarter. That is the towboat "Mokolii" with the "Makee" in tow.

Q. Now, Captain, in coming there did she—you say around the stern of the "Celtic Chief." Did she circle around the pulling steamers as well as the "Mikahala" and the "Helene."

A. She went outside.



(Testimony of J. R. Macaulay.)

Q. Outside of those steamers?

A. Outside of those steamers. She wouldn't do otherwise because the lines were fast. She wouldn't come [2404—1573] between the two steamers and the ship. That was impossible.

Q. And on around to the port?

A. To our port quarter.

Q. About how far away from the port quarter did she bring the "Makee" that night?

A. The "Mokolii" anchored close enough to our port quarter to throw a heaving line.

Q. Did she, at that time, have the "Makee" in tow? A. She did.

Q. Attached? A. Attached.

Q. Throw a heaving line? A. Heaving line.

Q. Tell us more particularly about that. What was done?

A. The "Mokolii's" master hailed the "Celtic Chief," and he sung out to the "Celtic Chief," "Stand by to take this line." Captain Henry and Captain Haglund and myself were on the poop at the time, so after he gave the alarm to stand by to take this heaving line, he immediately hove the heaving line over the ship's taffrail.

Q. At what part of the ship?

A. Aft the mizzen rail backstays.

Q. How near to the—I'm not a seaman so I'll ask you how near to the break of the poop.

A. About forty feet or so from the break of the poop abaft of the break of the poop.

Q. So that the heaving line came over the rail of the poop deck and fell on the deck?

(Testimony of J. R. Macaulay.)

A. It didn't fall on the deck. It was a very short end and the end came over the rail and lay down. A heaving line is finished off at its end with a great thick knot to give it weight. This knot came over this railing and it lay down about three or four feet [2405—1574] inboard of the rail.

Q. What then was done? A. The Captain—

Q. Captain who?

A. Captain Henry, he took ahoid of the end of the heaving line and I advised the captain not to make that heaving line fast at that time to let it go.

Q. Why not?

A. I didn't consider it was a proper time to take hold of that heaving line and have the "Mokolii" and the "James Makee" fast to the vessel.

Q. Why not? A. On account of darkness.

Q. Was it light enough to see this operation, throwing the heaving line over?

A. No, it was not.

Q. You saw it thrown up though?

A. I saw the heaving line at the rail because I was right there.

Q. Well, will you say further why it was not advisable to have her made fast that night?

A. I believe it was the intention of the Miller Salvage Company to lay an anchor.

Mr. WEAVER.—I object, if your Honor please, on the ground that this can only be a conclusion of the witness.

Mr. WARREN.—Just passing that, Captain, I'll ask you, do you know whether or not the anchor of the Miller Salvage Co. to which reference has been

(Testimony of J. R. Macaulay.)

made was dropped from the "Makee" that night?

A. I do not know.

Q. Do you know where the "Makee" lay at the time the heaving line was thrown aboard?

A. Yes.

Q. About how many points to the port quarter, toward [2406—1575] the port quarter would you say?

A. The "Makee" lay about twenty degrees to the southward and westward.

Q. Do you know how long she lay in that position that night? A. All night.

Q. Will you please indicate on that drawing by dotted lines, the position of the "Makee" as she lay that night?

(Witness draws.)

Q. In between the "Likelike" and the "Helene"?

A. She was there before they came.

Q. The "Makee"? A. The "Makee."

Q. Not "Intrepid" now? A. What is that?

Q. I'm asking about the "Makee."

A. I'm talking about the "Makee."

Q. This was Tuesday night?

A. This steamer was there.

Q. Long before these vessels came?

A. That's about the position of the "Makee."

Q. Will you mark that "Makee"?

(Witness writes.)

Q. Now, Captain, what was the size of that line that was thrown over the rail Tuesday night?

A. It was a line about a fifteen thread or an eighteen-thread heaving line, generally called rat-

(Testimony of J. R. Macaulay.)

ting stuff, rattling line; used for heaving line or rattling.

Q. Did you see any surf line that night from the "Makee" or the "Mokolii"? A. No, I did not.

Q. Was the line which was thrown up to the "Celtic Chief" by the "Mokolii" that night made fast in any way to the "Celtic Chief"? A. It was not.

Q. Did it, at any time, pass through any chock or port hole of the "Celtic Chief"?

A. It did not. [2407—1576]

Q. How long was it between the time that it was thrown over the rail before, or what happened to it then, I'll ask you. You say Captain Henry took hold of it. You advised him not to make it fast. What was done? A. The line was hove overboard.

Q. By whom? A. By Captain Henry.

Q. About how much time elapsed between the time it was thrown up and the time Captain Henry hove it overboard?

A. Not over ten minutes at the most.

Q. Did you then, or did Captain Henry, have any conversation with the captain of the "Mokolii" respecting this line in addition to what you have already stated? Were there any explanations why that line was not taken?

A. As near as I can remember, the captain of the "Mokolii" hailed the "Celtic Chief" and asked if that line was fast and there was no reply from the "Celtic Chief"; as near as I can remember there was no reply.

Q. Did you or Captain Henry subsequently have any conversation as to the reason why that line was

(Testimony of J. R. Macaulay.)

not made fast that night? A. Yes, we did.

Q. When?

A. Shortly after the line was hove overboard we did talk about it.

Q. Yes. How long after? A. Directly after.

Q. Will you tell us about that? Where was Captain Miller?

A. Captain Miller, I believe, was on board of the steamer "James Makee" at that time.

Q. That night? Did you see him at all that night?

A. I did not.

Q. When you say there was an explanation shortly afterwards will you tell us about that? What was it and with whom?

A. Captain Henry and I [2408—1577] spoke in connection with this anchor that was to be laid by the "James Makee." I thought it advisable for the captain of the "Celtic Chief" to wait until daylight until we could see the exact position where that anchor would be laid. That was my main reason for advising the captain of the "Celtic Chief" to delay letting go that anchor in the night-time.

Q. Delay letting go the anchor?

A. Delay laying that anchor.

Q. Did you see Captain Miller next morning?

A. I did.

Q. Did you or Captain Henry have any conversation with Captain Miller as to that line being thrown overboard the previous night?

A. I did not have any conversation that I remember.

Q. Did Captain Henry?



(Testimony of J. R. Macaulay.)

A. They may have spoken of the matter?

Q. You did not hear any conversation?

A. I did not hear any conversation.

Q. Now, did you hear any conversation at all between Captain Miller and Captain Henry next morning about placing the anchor at all, as to where that anchor should be placed?

A. Captain Henry, the master of the "Celtic Chief," told me that he had made arrangements with Captain Miller of the Miller Salvage Company—

Mr. WEAVER.—Object to this as hearsay unless it is proved that Miller was present at this conversation.

Mr. WARREN.—I think the answer might be finished. If it develops that it's hearsay—

The COURT.—Very well.

Q. Do you know, Captain, what arrangements were made [2409—1578] about the placing of the Miller anchor.

A. Captain Henry, master of the "Celtic Chief," told me that he had made arrangements with the Miller Salvage Company to lay that anchor out astern.

Mr. WEAVER.—Move that the answer be stricken out as hearsay.

Mr. WARREN.—No objection.

The COURT.—May be stricken.

Q. Do you know, Captain, where that anchor was laid? A. I do.

Q. Now, calling your attention to Wednesday morning, you say the "Makee" was lying early that morning where she had been the night previous?

(Testimony of J. R. Macaulay.)

A. Yes, sir, she was laying to an anchor there.

Q. Now, what operations were entered into by the "Makee" beginning Wednesday morning, with respect to that anchor? What did the "Makee" do?

A. The "Makee" moved over into a position and lay this seven-ton anchor and started to run a line or a messenger line to the "Celtic Chief"?

Q. Now, will you indicate on this plan, Captain, the position where the "Makee" dropped the big anchor Wednesday morning?

A. Before answering that question I would like to explain the fact that the "Makee" laid that anchor on this, the first time in the morning when she lay the anchor after arrangements were made for her to do so, she lay the anchor too close in to the "Celtic Chief" and in shallow water.

Q. Now, then, right at that point, will you please indicate on the diagram the place where she first laid it as you have just stated? [2410—1579]

(Witness draws.)

A. About there.

Q. Witness draws anchor which I'll ask you to mark with a one, figure one.

(Witness marks.)

Q. Now, was any line connected between the anchor and the "Celtic Chief" as the anchor lay in that position? A. No, there was not.

Q. Why not?

A. We wouldn't allow it. We considered the anchor dangerous.

Q. Did you have any conversation with Captain Miller about that? A. We did.

(Testimony of J. R. Macaulay.)

Q. Will you tell us what that was?

A. I informed Captain Miller that in the position of that anchor as it was laid was *dangers* to the ship and liable to pierce her bottom.

Q. What did you say about shallow water?

A. It was too close to the ship and in shallow water.

Q. Did you see it dropped? A. I did.

Q. The first time? A. I did.

Q. It was Wednesday morning?

A. You've got me on those dates again.

Q. You know it was in that position Wednesday morning?

A. On Wednesday morning? No, I don't know that. I don't know what time we shifted that anchor. It may have been Tuesday afternoon.

Q. She may have dropped it Tuesday night?

A. She may in the other place, in the second place.

Q. At all events it was dropped and lying in position number one when you had a conversation with Captain Miller that morning?

A. Yes, it was laying in that position. [2411—1580]

Q. You know it was dropped?

A. I know it was dropped.

Q. And for all you know it may have been Tuesday night? A. It may have been.

Q. Anything further in that conversation about the position the anchor should be in?

A. Captain Miller came aboard the "Celtic Chief" and he wanted to know what the reason was why we wouldn't give him the line or allow him to make the

(Testimony of J. R. Macaulay.)

line fast after he had laid his anchor. We told him that he had laid his anchor in a very dangerous position for the ship's safety and we would not let him pull on that anchor in that place; that if he would move his anchor out into deeper water where it would be more effective then we would assist him in making fast his ground tackle.

Q. Did Captain Miller agree to that?

A. He did.

Q. Did he agree with it immediately?

A. He did.

Q. If Captain Miller has testified in this case that before agreeing to that he said that he would take his whole outfit and go ashore with it, did he say anything of that sort to your recollection?

A. I haven't heard him pass any such remark.

Q. He agreed immediately to the change of the anchor, did he?

A. He agreed immediately to place the anchor wherever we thought proper.

Q. Did you then tell him where you wanted the anchor laid?     A. We did.

Q. And what was done?

A. He proceeded to lay the anchor.

Q. How long did it take to get that anchor up?  
[2412—1581]

A. Very few minutes. The "James Makee" has a very powerful steam winch. Took her no time at all to get the anchor up. Few minutes.

Q. And then what did he do?

A. He went off in a southerly direction away out into deep water and when he was in a safe position

(Testimony of J. R. Macaulay.)

we signalled him that it was all right, to let go his anchor.

Q. In getting to that position, did he pass around the "Helene"? A. The "Helene" wasn't there.

Q. "Helene"? A. No, not at that time.

Q. The "Likelike," you mean?

A. No, she wasn't there.

Q. The "Helene" was there, was she not?

A. I don't think so.

Q. Didn't the "Helene" come out on Tuesday morning and stay there right through?

A. Well, I forget. It strikes me that there was no vessels there when she laid that anchor.

Q. The "Intrepid" there?

A. The "Intrepid" was there then and the "Mikahala" was there. The "Helene" might have been there but I'm under the impression she was not.

Q. If, as a matter of fact, the "Helene" came out on Tuesday morning and took the place of the "Mauna Kea," took her line—

A. She may have been there.

Q. In any event, Captain Miller took the "Makee" and went out to deep water, then he got to a point which you thought was safe for dropping the anchor and you signalled and he dropped it?

A. He dropped the anchor.

Q. Now, will you please indicate on this diagram before you position number two of the Miller anchor?

(Witness draws.)

Q. Will you mark that with a figure two? [2413—1582]

(Witness writes.)



(Testimony of J. R. Macaulay.)

Q. What next was done, Captain?

A. That position was very satisfactory and he proceeded to run his line to the ship.

Q. Now, I'll ask you, coming back to the position of the anchor at number one, what was the depth of the water there?     A. At number one?

Q. At number one.

A. Well, I'm not prepared to say exactly what the depth of the water was right there at number one because I didn't sound in that particular spot, but I should judge there wasn't very much more than three or four fathoms.

Q. You base this on your knowledge?

A. On my knowledge of that location?

Q. Yes.

A. But I am positive where the anchor was laid the second time that there was sufficient water for any ordinary ship to float over it with perfect safety at any stage of the tide.

Q. Now, will you indicate on the plan, the manner in which the line was run from the Miller anchor to the ship?

A. The line was run, the anchor was shackled on to a four-inch wire hawser; the end of that wire hawser was carried by a messenger to the "Celtic Chief."

Q. Did they get the end of that wire on board the "Celtic Chief"?

A. They did not; they found out that when it was stretched that it was about, well, I should say about forty or fifty feet from the stern of the "Celtic Chief."

(Testimony of J. R. Macaulay.)

Q. That much too short?

A. That much too short.

Q. Now, how did they remedy that?

A. They bent on what looked to me like an eight-inch hawser on to the shackle attached to that wire.

[2414—1583]

Q. How long was that hawser? A. It was—

Q. Manilla hawser? A. Manilla hawser.

Q. How much you say?

A. I can't tell you the length of the hawser but there was lots of the hawser left on deck after it reached the wire. It was long enough.

Q. Approximately how much did they use?

A. They used just enough of that hawser to reach the wire.

Q. Then what was done with the hawser on the "Celtic Chief"?

A. Then they proceeded to reeve off their tackle and big purchase. The big purchase consisted of two three-fold blocks.

Q. Of what?

A. Three-fold blocks; three sheeves.

Q. Three sheeves?

A. Three-fold blocks attached to a seven-inch, brand new manilla hawser used for that purpose.

Q. Now, at what point on the "Celtic Chief" was the block fastened to the hawser of this first block, of this first tackle fastened to the hawser?

A. The block, one block was attached with a strop on to the hawser close up to the break of the poop.

Q. On the main deck? A. No, on the poop.

Q. On the poop? A. Yes. The next block.

Q. That's the point where they did the shackling

(Testimony of J. R. Macaulay.)

the block to the hawser?

A. That's the point, yes.

Q. And the block on that other end of that tackle was—

A. Lashed away down forward to the bitts on the starboard side. [2415—1584]

Q. Before proceeding further, Captain, will you draw the line from the anchor in position number two as it ran to the “Celtic Chief”—how it came over and where it went on the “Celtic Chief”?

(Witness draws.)

Q. Now, also, as you say this line, the point where the wire ended and the hawser began. Put a dot to indicate that.

(Witness draws a small circle.)

Q. Came over the stern of the “Celtic Chief”?

A. Came over the stern chock on the starboard quarter of the “Celtic Chief.”

Q. Over the poop deck?

A. Over the poop deck.

Q. And from thence where?

A. Those forward bitts.

Mr. WARREN.—(Witness draws two dots on the port side of the “Celtic Chief” indicating them to be the forward bitts.)

Q. Now, you have drawn, Captain, a line horizontally across the “Celtic Chief”; what does that indicate? A. That is the topgallant forecastle.

Q. That is the break—

A. Of the forecastle.

Q. You have also indicated on this drawing by two dots and three lines between the blocks of the main purchase have you?

(Testimony of J. R. Macaulay.)

A. The blocks and the hawser of the *much* purchase.

Q. Running between them?

A. Running between them.

Q. And carried the forward end of that to the bitts, forward bitts?

A. The end of the purchase.

Q. Yes.

A. No, no. There was a luff taken along.

Q. I mean the block?

A. The block was lashed down solid.

Q. How was that lashed?

A. With a very strong [2416—1585] rope lashing.

Q. There was a lashing from the foremast to the bitts?

Mr. WEAVER.—I object to that as leading.

Mr. WARREN.—I withdraw my question. How was Captain Miller's tackles operated?

A. It was operated by steam and by capstan. When steam was available they used steam; when it was not available they used capstan.

Q. Were there any other tackle other than the main tackle? A. There was.

Q. Which you have not mentioned?

A. There was.

Q. Describe it, please.

A. There was a first and second luff attached to the main purchase. First luff was composed of two three-fold blocks and six-inch manilla line.

Q. That was attached how?

A. To the fall of the main purchase.

Q. And the other block and that tackle attached—

(Testimony of J. R. Macaulay.)

A. The second luff was attached to the first luff by two three-fold blocks and a four-inch manilla line used as a fall.

Q. Where were the forward blocks of the first and second luff tackles?     A. Forward blocks?

Q. Yes.

A. They were attached, the first luff, the forward block was attached to the fall of the main purchase by a strop, manilla strop.

Q. The other block on that tackle how was that fastened?

A. The other block was lashed down stationary.

Q. Where?     A. To the forward bitts.

Q. Where the first main block was fastened?

A. Where the first main block was fastened.

Q. And the second block of the second luff similarly [2417—1586] attached.

A. They were both similarly attached. There may have been a preventer from these bitts to the windlass bitts, I really forget, but I really believe there was a preventer.

Q. What is a preventer, Captain?

A. A preventer is a lashing to take the strain or a share of the strain off any stationary object when heavy objects may be attached. That is, if the main object the purchase is attached to will give in the preventer then takes the strain and prevents the main bitts from carrying away.

Q. Now, how was that arrangement of tackles operated, Captain?

A. By steam when it was available and by the ship's own capstan.

Q. How long by steam and what steam was it?



(Testimony of J. R. Macaulay.)

A. The "Celtic Chief" was supplied with a steam donkey and outside of the donkey-house there was a long shaft with a drum on each end.

Q. Donkey-head?

A. Well, you might call it a donkey-head. It was a big iron drum. It was a head-on to this shaft outside of the house on the main deck put there specially for heaving and taking lines, heaving on them by steam, working cargo or setting sail.

Q. How long did the Miller people use that steam winch?

A. They used that steam winch whenever it was available.

Q. When was it not available?

A. When the Inter-Island were using it for working cargo. There was times when the Miller Salvage Company couldn't get their lines on.

Q. Were there times when they wanted to and couldn't?

A. There was times when they wanted to and couldn't.

Q. Do you know of any orders given by the captain of the "Celtic Chief" respecting that winch as to which was [2418—1587] to use it?

A. I do.

Q. Will you state what they were?

A. He gave instructions that the Miller Salvage Company was to use that steam winch whenever it was available.

Q. And otherwise who was to use it?

A. The Inter-Island Steam Company.

Q. Was there any order indicating who was to have the preference right to use it as between them?

(Testimony of J. R. Macaulay.)

A. Not that I know.

Q. At other times they used the capstan, you say.

A. They used the capstan.

Q. Do you know about what time of day on Wednesday that the rigging of the Miller tackles was complete? A. No, I do not know the time.

Q. Approximately; forenoon, or afternoon, or evening or what?

A. From the best of my recollection it was in the afternoon.

Q. When did they begin heaving?

A. There was not delay at all after the anchor was laid. They commenced operations immediately after the anchor was laid. That took very little time to straighten out that four-inch wire from that anchor.

Q. Can you tell us, Captain, approximately the distance between the blocks of the main tackle attached to the Miller line? When the line to the anchor had the slack taken up how far apart approximately were the blocks?

A. To get a strain on this main tackle of the Miller Salvage Company it required to fleet the main purchase on this eight-inch hawser a number of times.

Q. On the main purchase?

A. On the main purchase. It was fleeted and when a strain was got on this ground tackle then the main purchase was almost stationary and [2419—1588] it didn't move but very, very little. The second luff, of course, would move a great deal more than the first luff.

Q. How much more?

(Testimony of J. R. Macaulay.)

A. Well, I suppose about three times as much as the second.

Q. And the second luff, first luff would move how much more than the main tackle?

A. Well, about half as much as the first luff, as the second luff.

Q. Three sheeves in each block?

A. One and a half.

Q. One and a half. Now, how far would the block of the second luff attached to the fall of the first luff have to move in order to move the block on the main tackle one foot?

A. That's a hard question to answer.

Q. You have the number of sheeves in each block and number of lines.

A. There are other things to be taken into consideration. It takes a pretty good man to figure that question out. These were, this purchase was composed of that brand new manilla lines, brand new, and those lines before there was any strain got on them would stretch considerable. Now, the stretch of a manilla hawser has got a great deal to do with the material it's manufactured of, so I can't figure how far that purchase would travel before it would have to be fletted.

Q. So that you must take into account a considerable amount of stretching of new ropes?

A. Oh, yes.

Q. So that would mean that there would be that much more movement possibly which would not be the case if you were not using any stretchable ropes?

[2420—1589] A. Decidedly so.

Q. Now, assuming that these ropes and these

(Testimony of J. R. Macaulay.)

tackles had been, after a time, sufficiently stretched so that they wouldn't stretch any more, appreciably, then what proportion should there be in the movement between the main block on the first tackle, and the block on the main tackle and the block attaching to the fall of the main tackle, the block of the second luff, first luff what ought it to move?

A. At least fifty per cent.

Q. And the block on the second fall, you say, moved two times as much as the first?

A. As the first.

Q. Now, you say the main tackle was fleeted several times in order to get the slack up from the Miller line.

A. It was.

Q. Now, that having been done, how far forward on the deck did that block, where it was fastened to the hawser, move along the deck? How far forward from the place where it was bent on as it lay, approximately?

A. The main purchase would not travel very far until the second luff what a sailor terms as two blocks, that is, block and block. That would put that luff out of commission and no more use. That would be out of commission. Then that second luff would have to be overhauled because up to the forward block on the first block again and reeve away again. It would take but very little time for that second luff to get two blocks again and it would have to be fleeted and they would continue to do so until the first luff became two blocks; then it would necessitate a wrapping seizing to be put on that.

[2421—1590]

Q. A what?

(Testimony of J. R. Macaulay.)

A. A wrapping seizing. Then the first luff would be overhauled up close to the forward block on the main purchase and the same operation gone through the second time.

Q. Until? A. Until it became straight.

Q. Until you got the main tackle tight?

A. Tight.

Q. Now, calling your attention to the time and position of the block of the main tackle, where it was fastened to the hawser as you say, upon the poop, near the break of the poop, as it was lying when it was rigged, then to the time when the fleeting of tackles had been carried on to the extent of taking in the anchor line so that it was more or less taut; in other words, in a position for a strain to come on the line itself after the slack had been taken out, how much further forward on the "Celtic Chief" would you say that main block was as it was attached to the hawser of the position it was in at the break of the poop when it was shackled on? In other words, how many feet of slack were taken up in the Miller line before it got taut, approximately?

A. Approximately there must have been about a hundred feet of slack taken up.

Q. Then the line got taut?

A. Then the line got taut.

Q. The main tackle got taut? A. Got taut.

Q. Then the straining began?

A. No, not at that time.

Q. When did any straining begin on the Miller tackle?

A. At the time the main purchase was fleeted away astern close up to the poop and the same operation.



(Testimony of J. R. Macaulay.)

performed the second time. Then the main purchase was [2422—1591] the full length of the ship's deck with a considerable strain on the Miller Salvage ground tackle; then they attached luff number one and luff number two onto this ground tackle and hove taut. In fact, Captain Miller, of the Miller Salvage Company, called my attention to the fact that he had a pretty good strain on that anchor. I went over there with Captain Miller and I stepped on his hawser and I said, "Yes, I think so, but I wouldn't dare heave any more on that purchase."

Q. About what time of day was that, Captain?

A. That was—

Q. Before dark?

A. No, that was sometime early in the afternoon. I call your attention to the fact that there was a wire supplied from the "Celtic Chief" to the Miller Salvage Company to strengthen this eight-inch hawser. It was a wire, as near as I could figure it out, three-inch wire. That is, it would be an inch in diameter.

Q. Three-inch diameter?

A. One inch in diameter, about three inch circumference. That was rove through and doubled to strengthen this eight-inch manilla hawser and when that was secured to the shackle, in my opinion there was sufficient strain then put upon that ground tackle, in fact it was about all it could bear, to my judgment, and I advised Captain Miller to not heave any more. That was at low water.

Q. Do you know anything, Captain, of lightering operations in connection with the "Celtic Chief" on the part of the Inter-Island Company? A. I do.

(Testimony of J. R. Macaulay.)

Q. Will you tell us what was done in that connection?

A. After the steamers of the Inter-Island [2423—1592] Company had secured their lines and anchors to the best advantage they commenced to lighten the vessel with their own boats, the steamer's boats. They started in at the main hatch and finished at the after hatch.

Q. Speaking of lightering, we'll go further back. Do you know of any lightering done by the Miller Salvage Company? A. I do.

Q. Do you know when that was begun?

A. Yes, approximately. The Miller Salvage Company appeared on the scene with a schooner called the "Concord," I believe her name was, and a barge, "Kaimilou."

Q. How did it happen, if you know, how these, why these schooners, these vessels were brought out by Captain Miller?

A. They were brought out by an arrangement with Captain Henry, master of the "Celtic Chief" and the Miller Salvage Company.

Q. When was that made? A. On Monday.

Q. About what time on Monday morning, as near as you can remember, did Captain Miller come out there first?

A. He came out early Monday morning.

Q. And came aboard?

A. He came aboard the ship.

Q. Were you present at the conversation between him and Captain Henry? A. I had.

Q. Will you tell us what that was; what arrangement was made?

(Testimony of J. R. Macaulay.)

A. He said that he had some schooners in the harbor.

Q. Captain Miller said?

A. Captain Miller, representing the Miller Salvage Company, and that he could get them off as soon as possible and lighten the ship. Captain Henry consented to him doing so and to have the schooners come off as soon as possible. [2424—1593]

Q. In that conversation was any reference made to anchors, any anchor that Captain Miller had?

A. None whatsoever to my knowledge.

Q. Then the only understanding of which you know on that occasion was that these vessels were to be brought out to lighter?

A. To lighter the ship, at that particular time.

Q. About how long a time elapsed after that before the "Concord" appeared? You say she came first?

A. The "Concord" was the first.

Q. When did she come out, as near as you can remember? The "Concord."

A. As near as I can remember the "Concord" arrived there sometime in the afternoon.

Q. Early or late?

A. Early in the afternoon.

Q. And the "Kaimilou" how long after?

A. Shortly after.

Q. What did they do then?

A. They started to discharge into the "Concord."

Q. How? A. By hand.

Q. How did the "Concord" take position?

A. She lay alongside the "Celtic Chief's" bow to stern. The "Concord's" bow was heading south.

Q. How did she make fast?

(Testimony of J. R. Macaulay.)

A. She made fast with spring lines and breast lines on to the "Celtic Chief."

Q. What is a spring line, Captain?

A. A spring line is a line angling either forward or aft.

Q. Along the side of the ship?

A. Along the side of the ship.

Q. How is it used? A. Beg pardon? [2425—1594]

Q. How is it used?

A. It's used to hold the vessel from going to an opposite direction to what the spring is fastened.

Q. And is it fastened on both ends or one end?

A. It's fastened on both ends.

Q. One end might be fastened to the wharf and one end to the ship?

A. One to the wharf and one to the ship.

Q. That's to keep the vessel from surging forward or aft as the case may be. Now, where did the "Kaimilou" make fast?

A. She made fast on the starboard side.

Q. How long did it take for them to get their loads?

A. The schooner was loaded, as near as I can remember, before dark on that same day.

Q. And the "Kaimilou"?

A. The "Kaimilou" was loaded sometime the following morning before daylight.

Q. How long was Captain Miller there?

A. He was there while those two vessels were receiving cargo.

Q. Do you know anything about the "Makee"

(Testimony of J. R. Macaulay.)

coming out for a load?

A. Yes, the "Makee" came out for a load.

Q. When—that same day?

A. I really can't remember. It was after the "Kaimilou" was loaded. I believe that the "Makee" took a load. There was three loads altogether.

Q. Captain Miller remained as long as any of his vessels remained?

A. He remained as long as any of his vessels were there.

Q. Can you remember what time it was, we'll say on Tuesday morning, did Captain Miller leave to go ashore? [2426—1595]

A. About midnight Monday night, I laid down in the pilot-house and went to sleep, had a rest; when I woke up I met Captain Henry on the poop and asked him what time they had finished the "Kaimilou" and he said only just a short while ago. It was then going on to daylight. What time that Miller went I don't know.

Q. So you don't know of any conversation between Captain Miller and Captain Henry just prior to Captain Miller coming ashore? A. No, I do not.

Q. Do you know whether or not any arrangements had been made between Captain Miller and Captain Henry as to further lightering by the Miller Salvage Company? A. Yes, I do.

Q. What was to be done?

A. It was understood that Captain Miller, representing the Miller Salvage Company, was to return immediately to the ship.

Q. For what purpose?



(Testimony of J. R. Macaulay.)

A. For continuing salving the vessel, but for some unaccountable reason, he did not return until very late in the afternoon.

Q. That would be Tuesday afternoon when he came out with the anchor?

A. That would be Tuesday afternoon. Captain Henry asked him what was his explanation for remaining so long.

Q. When did he ask him that?

A. When he returned.

Mr. WEAVER.—Were you present, Captain, when that conversation took place?

A. I was.

Mr. WARREN.—When he came back with the anchor Tuesday night?

A. When he came back yes, with the anchor.  
[2427—1596]

Q. What was his explanation of not returning after he had promised to return?

A. After he got those vessels discharged—

Q. What do you mean? The "Kaimilou" and the "Concord"?

A. Yes, and the "James Makee." His explanation was that he had some trouble with the custom-house in landing this foreign cargo, something unforeseen, he never thought of. He had no permit to land this cargo. He was caused delay further, he said, that his anchor was away over by the railroad wharf, in that vicinity somewhere, and it took considerable time to get that anchor to the Oceanic wharf, I believe he said. In fact, when they arrived at the Oceanic wharf the anchor was too large to go

(Testimony of J. R. Macaulay.)

through the gateway and he had to cut away posts in that gateway, and he explained to us that he got into all sorts of trouble about transferring that anchor, and that was his explanations of his delay.

Q. Do you know whether any arrangement had been made that he should bring out an anchor?

A. Not that I know of. We expected that he would come back to lighter the vessel.

Q. So far as you know there was no agreement between him and Captain Henry that he was to bring an anchor instead of lightering?

A. Not that I know.

Q. Have you any knowledge of any conversation between Captain Miller and Captain Henry in which Captain Miller urged the use of an anchor, before any further lightering was done?

A. I have no knowledge of any such conversation.

Q. Might they have had such a conversation without your knowledge? A. Oh, yes. [2428—1597]

Q. How frequently were you in communication with Captain Henry regarding operations?

A. Continuously. There wasn't a move made at all in connection with that ship while she was on the reef, but Captain Henry asked my advise on the matter; that is, that I know of.

Q. That is, he did nothing without asking your advise?

A. He did nothing that I know of without asking my advise.

Q. If he had made any arrangement with Captain Miller to bring out an anchor instead of continuing lightering would you have known it?

(Testimony of J. R. Macaulay.)

Mr. WEAVER.—I object to that, if the Court please, as calling for a mere surmise or conclusion of the witness.

The COURT.—I think Judge Weaver's position is right.

Q. Do you know of any conversation between Captain Miller and Captain Henry in which it was intimated in any way by Captain Miller that Captain Henry would loose his license if he continued to lighter without putting out an anchor?

Mr. WEAVER.—I object to that as leading.

The COURT.—It's leading.

Q. You say you were present at the time the arrangement was first made between Captain Henry and Captain Miller about Captain Miller, for the Miller Salvage Company bringing out these vessels to lighter? A. I was present at that time.

Q. If Captain Miller has testified in this case that he then proposed to him, Captain Henry, that he lay his big anchor to hold the ship, that you would not listen to that? Do you remember anything of that kind? A. I do not. [2429—1598]

Q. Can you say whether or not anything of that kind was actually said or intimated by that captain?

A. I don't remember of any such language being used at all by Captain Miller.

Q. Anything to that effect?

A. Nothing to that effect.

Q. You heard all the conversation?

A. I heard all the conversation.

Q. You'd remember it if you heard it?

A. I would.

(Testimony of J. R. Macaulay.)

Q. To that effect?      A. I would.

Q. Do you know personally of the arrangement to which you have testified that Captain Miller was to come back right back and continue lightering?

A. That was the understanding.

Q. Do you know of that yourself?      A. I do.

Q. You heard that arrangement made?

A. I heard it made.

Q. Between Captain Miller and Captain Henry?

A. Between Captain Miller and Captain Henry.

Q. In that conversation did Captain Henry, Captain Miller, say anything to the effect that if you kept on lightering he would lose his ship?

A. I don't remember Captain Miller saying anything of that kind or not. Captain Miller, representing the Miller Salvage Company was under the instructions to work to the safety of the "Celtic Chief's" orders. At that time the chief officer of the "Celtic Chief" was hard at work trying to secure the starboard anchor and shackle the starboard anchor from the chain-cable, and Captain Henry and I went over the ship and found out what our tackle consisted of. As near as I can remember, there was one kedge anchor and a boat anchor, two bowery anchors, and a spare bow anchor. The chief officer was instructed [2430—1599] to unshackle the starboard bow anchor. We hired Young Brothers' anchor scow to carry that starboard anchor out astern. The chief officer worked for a whole day and half a night trying to unshackle that starboard anchor, and after putting in all that time failed to unshackle that chain-cable so our ground tackle was taken care of. We had a thought to every little move

(Testimony of J. R. Macaulay.)

that was made on board of that ship. Captain Miller gave the master of the ship no instructions whatsoever. It was the master of the "Celtic Chief" that instructed Captain Miller.

Q. Did Captain Miller make any suggestions as to what ought to be done? A. He did not.

Q. Now, Captain, directing your attention to the time on Tuesday evening when the "Makee" and "Mokolii" came out and the heaving line was thrown in. If Captain Miller has testified in this case that this surf line, as he called it, having been let go from the "Celtic Chief" on that night that the captain of the "Mokolii" came back from the "Celtic Chief" to the "Makee" and reported that Captain Henry was in a rage because he, Miller, had not come back with lighters and he didn't want anchors, can you say whether or not that is correct?

A. Now that you call my attention to it, I believe it's pretty near correct. There was some words between Captain Henry of the "Celtic Chief" and the master of the "Mokolii." Captain Henry was very much disappointed at Captain Miller not returning with those empty vessels.

Q. Tuesday night, Captain, the time this line was thrown on the "Celtic Chief," would you say it was dark? [2431—1600] A. It was dark.

Q. Was it light enough in your judgment for anybody on the "Makee" looking over to the "Celtic Chief" to have seen just what was done with that surf line, with that heaving line?

A. It was not possible for any person on the "Makee" to see what was done with that line. It was not possible.



(Testimony of J. R. Macaulay.)

Q. If Captain Miller has testified in this case that he saw that line made fast and saw it let go himself, he using a night glass, would you say whether that could be correct?

A. Well, I'm not a *special* on eyesight. I've got my doubt about Captain Miller being able to see what was done with any line on that night.

Q. Well, if he says he saw it made fast?

A. I'm positive the line was not made fast.

Q. If he says he saw a hand come out of the chock and take hold of it and draw it in?

A. There was no chock at that particular place.

Q. Any port hole or anything to draw it in?

A. No port hole.

Q. Do you know George Fern?

A. I know him by sight.

Q. Was he on board the "Celtic Chief" that night?

A. Tuesday night?

Q. Tuesday night when the heaving line was thrown on? A. Not that I know of.

Q. Did you hear all the conversation that passed between the "Mokolii," anyone on board the "Mokolii" and anyone on board the "Celtic Chief" that night with respect to that line?

A. I heard all the conversation.

Q. So that if it has been testified by any witness in [2432—1601] this case that George Fern or anyone else on board the "Celtic Chief" sang out to the captain of the "Mokolii," "All right, she's fast," would that be correct? A. It would not.

Q. Would you have heard anything of that sort if it had been said? A. I would.

Recess.

(Testimony of J. R. Macaulay.)

Mr. WARREN.—At this time, your Honor, it's been agreed between counsel in the case that Exhibit "E" of the Miller Salvage Company, which is an extract from the tide tables for Wednesday and Thursday, may be withdrawn and a substitute extract from the tide tables of the Department of Commerce and Labor for 1909, be substituted, showing the tide for Sunday, Monday, Tuesday, Wednesday, and Thursday.

Mr. WEAVER.—Subject to the same explanatory notes of Exhibit "E."

Mr. WARREN.—Yes; this is to take the place of Exhibit "E."

Mr. OLSON.—That's agreeable.

Q. This morning Captain, you stated that instructions had been given by Captain Henry to the Miller Salvage people that the ship's winch was to be used whenever available for the purpose of heaving in on the Miller Salvage tackles? A. I did.

Q. And that at other times they used the capstan?

A. Capstan.

Q. Do you know whether or not any reason was given for that order?

A. The same donkey was used for hoisting the cargo out of the hole of the "Celtic Chief."

Q. I mean apart from the other purpose that it was used for. Why was the winch to be used whenever [2433—1602] available rather than the capstan?

A. Because the winch was more powerful and speedier.

Q. Now, Captain, after the "Intrepid" took hold of the "Celtic Chief," did she or did she not move

(Testimony of J. R. Macaulay.)

any further inshore?

A. She moved further in-shore.

Q. About how much, do you think?

A. The first day she moved a considerable distance in upon the first ledge of the reef sufficient for the ship to take bottom the whole length of her keel.

Q. And that was her only motion forward?

A. That was her only motion upon that day.

Q. Now, following that, did she move any further inshore after the "Mauna Kea" and the "Mikahala" took hold?

A. If the Court will permit me, I will give you the exact bearings of the ship, upon Tuesday, I believe it is, and Wednesday; both days.

Q. Did you take bearings on Monday?

A. I did. No, not on Monday. I took bearings on Tuesday and Wednesday, I believe. I have a memorandum of those bearings if I will be permitted to—

Q. You made those at the time?

A. I made those at the time.

Mr. WARREN.—There is no objection by counsel, is there?

There is no objection to that Captain, you may refer to them. (Witness produces document from inside coat pocket.)

A. The exact position of the ship where she was stranded on the reef was taken by standard compass, Tuesday, December 7, at six A. M., Honolulu Lighthouse bearing north, forty degrees, east; Diamond Head, highest peak, south eighty degrees, east. Wednesday, December the 8th at seven-forty-five A. M., Honolulu [2434—1603] Lighthouse bearing north, thirty-nine degrees, east; Diamond Head,

(Testimony of J. R. Macaulay.)

highest peak, bearing south eighty degrees east; ship's head at time of bearing was north, eleven degrees, west. The maker of this compass from which I procured these bearings was Negus, New York.

Q. Now, Captain, in view of those bearings, can you say approximately how many feet the "Celtic Chief" moved between the time these bearings were taken?

Mr. OLSON.—I object, if the Court please. I wish to ask some questions to qualify the witness first. Captain, as I understand, you took the highest peak of Diamond Head as one of your field points?

A. Yes.

Q. And the lighthouse as the other?

A. Yes, sir.

Q. And according to your observations taken on Tuesday, at six o'clock in the morning, the lighthouse bore north forty degrees, east and the peak of Diamond Head south eighty degrees, east; that's correct, is it? I'm now reading from your memorandum?

A. Yes, sir.

Q. And the only variation that you found on Wednesday at seven-forty-five in the morning was that the lighthouse bore north thirty-nine degrees instead of north thirty degrees east, the other bearing being the same. That's correct, isn't it?

A. That is correct.

Q. Now then, I'll ask you, Captain, where did you get this compass?

A. It was a standard compass belonging to the ship, sir.

Q. And where was that compass lying?

(Testimony of J. R. Macaulay.)

A. It was lying on the bridge specially built for that purpose.

Q. It was a fixed point where the compass lay, was it? [2435—1604]

A. It was a fixed point and it was protected from local attraction by magnets.

Q. Do you know the distance from the point at which you were taking the observation by means of that compass to the peak on Diamond Head to which you refer? A. The distance?

Q. Yes. A. Approximately so.

Q. How far was it?

A. In the neighborhood of five miles.

Q. When you say in the neighborhood of five miles, do you mean that it was exactly five miles?

A. No, I don't mean that.

Q. Do you know whether it was more or less than five miles? A. It was more.

Q. But you don't know how much more?

A. I have an idea.

Q. How much more? A. A quarter of a mile.

Q. Wouldn't that be nearer?

A. It would be pretty near.

Q. Have you measured?

A. No, not by the measure.

Q. So that it might vary a hundred yards or so?

A. It might be a hundred yards or more.

Q. To that peak?

A. To that peak, Diamond Head.

Q. You have a chart, have you, or you have seen a chart on which that peak is charted?

A. I see that chart daily.



(Testimony of J. R. Macaulay.)

Q. How were you able to determine the exact distance to the point where the "Celtic Chief" was located? That spot was not located on the chart, was it?

A. I've not seen that point exactly marked on the chart. Not necessary.

Q. Not necessary?

A. Not necessary to see [2436—1605] that point because—

Q. Just a moment.

Mr. WARREN.—Let the witness answer the question. I withdraw my objection on the understanding that I may have redirect on this.

Mr. OLSON.—Of course, you've got the right to do that.

Mr. WARREN.—The witness has answered this question.

Mr. OLSON.—Now, then, Captain, you haven't yet told me whether or not the point where the "Celtic Chief" was ashore is charted on the chart to which you refer as showing the point where this peak is.

A. Those two bearings that I gave you—

Q. That's not the point, Captain. I'm asking if the point where the "Celtic Chief" was lying is charted on that chart to which you refer?

A. It certainly is.

Q. That point?

A. There is no point where the "Celtic Chief" is located.

Q. I'm asking you, Captain, if the place, the particular location occupied by the "Celtic Chief," as

(Testimony of J. R. Macaulay.)

she lay aground there is charted on the chart there to which you refer?

A. The whole south side of the Island of Oahu is charted.

Q. Is that particular, specific, location shown there? A. There is no point.

Q. So, then, as far as that chart is concerned, you would be unable by merely looking at it find the exact spot; isn't that so? A. It is not so.

Q. Could you show exactly?

A. I can, exactly. Those two bearings show exactly where the two bearings met.

Q. I'm asking you could you show on that chart the exact place where the "Celtic Chief" was ashore? [2437—1606] A. I can.

Q. Exactly? A. Exactly.

Q. Will you kindly produce that chart?

A. I have no chart.

Q. Will you kindly bring that the next time you come here. A. Yes, sir.

Q. I wish to have that—I'd like to have that chart produced Captain so that you could point out to us here the exact spot.

A. I have no chart of the south side of Oahu in my possession, but I presume that I could get one in Honolulu.

Q. Will you kindly produce such a chart as you see every day?

A. Yes, I can. I don't own the chart, the charts are down in the pilot station there.

Q. And you are a pilot regularly appointed?

A. I am. I have no control over the charts.

(Testimony of J. R. Macaulay.)

Q. Would you have any difficulty in getting one of those charts and bringing it up here?

A. I would have considerable difficulty. I would have to go to the Superintendent of Public Works and the Harbor Commission and get their sanction.

Q. That's a very important point and I would like to have that chart produced.

A. I can explain that position to you with a blank piece of paper without any chart of the south side of Oahu.

Q. Did you take observations by instruments as to the location of the "Celtic Chief"?

A. I took observations by her standard compass.

Q. And you would be able by those observations to locate that spot on the chart?

A. Exactly. [2438—1607]

Q. Do you know the distance from the point where the ship was located to the lighthouse straight across?

A. Not the exact distance.

Q. Well, do you know approximately?

A. Yes.

Q. How much approximately?

A. About, I should say about half a mile.

Q. Well, now, might it be or might it be less?

A. It might be more and it might be less.

Q. You don't know how much it would vary?

A. Not correctly.

Q. Would it vary as much as a couple of hundred yards? A. It might.

Q. Do you know the distance from the ship to the peak of Diamond Head that you spoke of?

A. About five miles.

(Testimony of J. R. Macaulay.)

Q. Do you know that exactly?

A. No, not exactly.

Q. How near could you come to estimating that distance?

A. I wouldn't alter my figures in the distance at all from the lighthouse to Diamond Head.

Q. It might be more and it might be less?

A. It might be more and it might be a little less, so far as I know.

Q. Now, in making the observation that you did, did you do anything else than note the point indicated by the compass in the direction toward the peak of Diamond Head to which you have referred on the one hand and the point in the lighthouse on the other?     A. I did.

Q. That's what you did, isn't it?     A. I did.

Q. Anything else? [2439—1608]     A. Yes,

Q. What else?

A. I found the error of the compass.

Q. What did you do?

A. I found the error of the compass.

Q. Did you do anything else besides that?

A. That's all.

Mr. WARREN.—Captain, in taking observations for the purpose of locating the position of any precise point such as the point where the "Celtic Chief" was stranded, what elements, what kind of calculation must be made? How do you do it?

A. The method usually taken to get the exact position of the ship or any object is by getting two—

Q. Allow me here at this point to say, you being at that point yourself while making the observa-

(Testimony of J. R. Macaulay.)

tions. A. That is understood.

Q. Yes, proceed.

A. The usual method of obtaining your position by bearings is to get two objects, stationary objects in transit; that's your first observation. Then you get that bearing, you draw the line from your position in line of that bearing of those two objects in transit or in line with each other; then to get any bearing at all about right angles, say ninety degrees from your first observation, you get that bearing and where those two bearings cut each other, those lines.

Q. You mean intersect?

A. Intersect, is the exact position of the ship barring the error of your compass.

Q. What do you mean by "error of your compass"? A. Deviation.

Q. There is deviation in every compass?

A. There is, more or less. [2440—1609]

Q. There is a known method of calculating the deviation of every compass? A. There is.

Q. And making that calculation you applied that to your calculation?

A. I applied that to my calculation.

Q. Now, is it necessary, in making any such calculation, to know the distance from the point where you are, the point you are to locate and the points on which you take your bearings, the object on which you take your bearings?

A. Not at all necessary to know the distance between the objects, in this case Diamond Head and the lighthouse? A. Not at all necessary.

Q. Having taken an observation and reached a



(Testimony of J. R. Macaulay.)

conclusion as to the position of the point where the observation was made, could you, at any time after that, with the use of those results, put yourself on that precise point again without any variation at any time? Is it possible, Captain, having taken an observation from a given point and with observation of an object, the point having moved, a subsequent observation taken from the new point, to determine the distance between the first point and the second point where the observations were taken? In other words, in this particular case, can you, from the observations which you took, the position of the "Celtic Chief," the first observation and the second calculate and get in feet the distance between those two points? The question is, can it be done?

Mr. OLSON.—I object, if the Court please; that's the very point covering my objection.

Mr. WARREN.—I'm not asking for the distance, Captain. [2441—1610]

Mr. OLSON.—Captain, did you use one compass in the course of your calculations there?

A. One compass.

Q. And that compass remained at the same point all the time? A. Yes.

Q. It was never taken away from there on the bridge?

A. It was never taken away; stationary on the bridge.

Q. In other words, Captain, you didn't have any compass with you other than the compass on the bridge? A. There was another compass.

Q. Did you use it? A. I didn't use it.

(Testimony of J. R. Macaulay.)

Q. Or anyone else use it? A. No.

Q. Did anyone else use it for the taking of bearings? A. Not for bearings.

Q. Isn't it the fact, Captain, that if you take a bearing at one point, from one point, to get the other points in the way that you have indicated that you did on Tuesday morning, that in order to ascertain the distance which the point to take the observation from has travelled the next morning when you take your observation again, isn't it true that you must know, in order to measure the distance it has travelled, exactly where the former point was by means of a compass. In other words, you have to go back and take the point that you took the day before? A. Not necessary.

Q. Are these magnetic bearings that you took?

A. Magnetic bearings. Every chart that is issued by the Government is issued with a certain scale showing the distance in miles and fractions of miles. Now, supposing this first situation was the "Celtic Chief."

Mr. WARREN.—Mark it one.

A. I would prefer to have a new paper. I want to explain [2442—1611] as near as I can the way to obtain the distance from your objective point to any bearing. Supposing this was the "Celtic Chief" laying here.

Mr. OLSON.—Now, if the Court please, I'm willing to do this: I'm willing that instead of having this matter go into the record, to have counsel examine outside of the record and then if either counsel wish, to have that repeated into the record.

(Testimony of J. R. Macaulay.)

Mr. WARREN.—That's agreeable to me.

Mr. OLSON.—Is that agreeable, Mr. Weaver?

Mr. WEAVER.—All right.

Mr. OLSON.—I give notice to counsel that I shall ask counsel to produce the chart which the captain used.

Mr. WARREN.—I submit that I cannot do it.

The WITNESS.—The chart that those bearings were taken from I don't know where it is to-day. This chart was the ship's chart. It was a copy of an American publication copied by a paper of the American Government and the chart belonged to the ship, "Celtic Chief."

Q. Where is it now, Captain?

A. It's on board the ship "Celtic Chief" and I don't know where she is now. She may be in Jerusalem.

Mr. OLSON.—I understand, Captain, that you say it was a chart published by the American Government.

A. It is a copy of the chart published by the American government.

Q. Are copies of the same kind available here in Honolulu?

A. A map, a survey for maps go for a certain period of time then there are new surveys. If you could fix the time the Government survey when that chart was published, the day and the date and all about it. [2443—1612] They'll have a new survey issued that throws that chart out.

Q. Do you know what particular chart that was, of what series—that chart was a copy of what sur-

(Testimony of J. R. Macaulay.)

vey, of what Government official survey?

A. A late survey of the American Government.

Q. Do you know what date?

A. I don't possibly.

Q. Do you know what year?

A. I don't possibly.

Q. Do you know the name of that chart?

A. Yes, I do.

Q. What is the name of it?

A. Southside of Oahu. Chart showing the south-side of Oahu, published by the United States Government.

Q. But you don't know what year?

A. It was a late year. It was a late chart but what year I'm not positive of.

Q. Are charts of that kind although not necessarily of that year, available here in Honolulu

A. I believe they are. I believe you could procure a chart at the Hawaiian News, Mr. Soper's place.

Q. What was the size of this chart approximately?

A. The whole sheet?

Q. Yes.

A. The chart was about—let me see if I have—

Q. Did you say what you thought the size of that was?

A. I was just going to try and figure it out. As near as I can remember that chart was about thirty-two inches long by about twenty-six inches broad.

Q. Twenty-six inches broad?

A. Somewhere about that.

Q. Now, then, let me ask you what that map included. [2444—1613] How much of Oahu, of the

(Testimony of J. R. Macaulay.)

Island of Oahu, did that include?

A. Included from Diamond Head to somewhere in the vicinity of Barber's Point.

Q. Practically the whole south coast of Oahu?

A. No, not the whole. Between Diamond Head to about Barber's Point.

Q. Now, what is that distance, from Barber's Head to Diamond Point? Diamond Head to Barber's Point.

A. The distance is about twenty miles.

Q. About how much space on that map did that distance occupy? How far was it on the map in inches, approximately?

A. The map had a clear margin of about an inch or two on its edge clear.

Q. Now, then, as you remember it, Captain, about what scale was it, approximately? You remember the size of the map and you know that kind of a map and you know the distance that that included there. About how many miles to the inch or how many inches to the mile on that scale?

A. The map was to a scale. I can explain you that, answer you that question if you will allow me to show you on paper.

Q. Any way that you please, Captain.

Mr. OLSON.—How many miles to the inch or how many inches to the mile?

A. That I don't know. I don't know the scale of that chart, that particular chart.

Q. Captain, having assured yourself somewhat as to the distance per inch on the drawings or in the calculations that you've made, can you say that there



(Testimony of J. R. Macaulay.)

would be as [2445—1614] much as two inches to the mile on the map that you had in the scale, according to the scale? Would it be as much as that?

A. I would not dare to say what the distance would be on that particular map. I wouldn't dare to say so because I can't remember the scale that was on the map and the approximate distance I gave you by my estimate as near as I can come to it by memory. I don't wish to commit myself one way or another about the matter.

Q. Let us see then, Captain. If the scale were two inches to the mile in order to make the twenty miles from Barber's Point to Diamond Head, you'd have to have forty inches on the map?

A. Somewhere around there.

Q. So it must have been less than two inches to the mile? A. I don't know.

Q. Well, if you know your map was thirty-two.

A. I only gave you the approximate size of paper that the map was printed on.

Q. You say that map was about thirty-two inches by twenty-six? A. Somewhere around there.

Q. It wouldn't be much more than thirty-two?

A. Not more.

Q. Then, between Barber's Point and Diamond Head, as occupied on that map, it wouldn't be more than thirty inches at the utmost?

A. What is the question?

Q. I said, if that map was about thirty-two inches long, the distances in inches from that map from the point showing Barber's Point and the point indicated couldn't have been more than thirty inches if there

(Testimony of J. R. Macaulay.)

was a clear [2446—1615] space around the margin? A. It would be less.

Q. All the distance from Barber's Point to Diamond Head is twenty miles, according to your knowledge? A. About twenty miles.

Q. That would mean, would it not, that the scale on that map must have been about inch and a half or less to the mile?

A. Or else it must have been smaller.

Q. Aren't you satisfied in your mind, Captain, that the scale of that map was less than an inch and a half? A. No, I'm not satisfied.

Q. Could it have been as much as two inches to the mile? A. That I'm not prepared to say.

Q. Was the map as much as forty-four inches long? A. I can't tell.

Q. Didn't you state that possibly that map was thirty-two?

A. I gave you what I thought was the approximate size.

Q. Could it be as much as a foot more in length than the distance that you gave as its length?

A. A foot more?

Q. Yes, would it be twelve inches more, forty-four inches? A. It might have been.

Q. Would it be more than that?

A. No, I don't think so.

Q. Now, then, if it wasn't more than forty-four inches at the utmost, isn't it the fact, Captain, that that map as drawn or delineated on that map there couldn't have been more than forty inches from the point designating Barber's Point to the point desig-

(Testimony of J. R. Macaulay.)

nating Diamond Head? Forty inches; isn't that the fact?

A. I can't tell the exact size of the sheet that that [2447—1616] chart was printed upon.

Q. But you said it was not more than forty-four inches.

A. But I give you what I think is proper.

Q. Was that sheet of paper thirty-two inches?

A. Somewhere around that.

Q. And it couldn't have been more than forty-four?

A. I don't believe it was any more than forty-four.

Q. Then if it was not more than forty-four inches there couldn't have been more than forty inches from Barber's Point to Diamond Head?

A. It had a clear margin.

Q. And there must have been at least two inches from the edge of the map from Barber's Point and two inches to the other side? A. That's so.

Q. At least? A. At least.

Q. So that there were not any more than forty inches between those two points as indicated on that map? A. About that.

Q. Therefore, if that is so and it is twenty miles from Barber's Point to Diamond Head, that scale couldn't have been more than two inches to the mile, could it? A. About two inches.

Q. And it must have been less if the map was smaller in the way as you say you believe it was?

A. As you reduce the size of the map you reduce the scale.

Q. You reduce the scale? A. Exactly.

(Testimony of J.R. Macaulay.)

Q. In other words, on the scale there is more distance per inch the smaller the map is, isn't that so?

A. That is so.

Mr. WARREN.—Your Honor, I'd like to withdraw the [2448—1617] question.

The COURT.—Very well.

Mr. WARREN.—Captain, having taken the observations to which you have testified on the morning of Tuesday, on the morning of Wednesday, did you afterwards make any calculations upon any chart or otherwise determine mathematically the distance between those two points?

A. We located the exact position of the "Celtic Chief" by our first and second observations.

Q. Exactly. Did you afterwards take those two locations and with them, on any chart or otherwise, calculate the distance between them by use of a compass similarly as you have testified heretofore?

A. I didn't take those observations specially to get the distance from the "Celtic Chief" to Diamond Head.

Q. I mean the distance, did you calculate the distance between the points where the "Celtic Chief" was Tuesday morning and the point where it was Wednesday morning? Using those calculations did you figure the distance? In other words, the distance the "Celtic Chief" had moved?

A. Not by those observations.

Q. Not by those? A. No.

Q. On any chart? A. No.

Q. Well, Captain, did you, in any other way by observations determine the distance that the "Celtic

(Testimony of J. R. Macaulay.)

Chief" moved from Tuesday morning until Wednesday morning by any other observations such as range lights or objects on shore? A. I did.

Q. When did you make those?

A. On Tuesday we took a bearing. On Tuesday we took a bearing of one of the light sticks in the channel leading [2449—1618] into Honolulu Harbor and also the bearing of an object Waikiki, stationary. Both stationary bearings. Those two objects were exactly in transit with one another. By observing those two bearings we could determine any motion of the "Celtic Chief" inward or outward as the case might be.

Q. Now, did you subsequently take any further observations which indicated that there had been any changes? A. I did.

Q. When did you take the next observation?

A. I can't remember the exact time.

Q. Never mind the hour.

A. But we did take a second and took a great many observations of those two stationary bearings. In about twenty-four hours or so after taking the first bearing of those stationary marks we observed that the "Celtic Chief" had moved further in on the reef and the distance that she had moved was measured off on the poop deck of the "Celtic Chief." That distance, to the best of my recollection was six feet.

Q. Now, how did you determine that that was the distance?

A. To get those, to determine that distance, we had to get those bearings in line as we had them at our first observation, in transit, by getting them back in



(Testimony of J. R. Macaulay.)

their original position. We had to walk along the deck and get them in exact line and get the position of the ship on the first bearing. The distance was six feet.

Q. Did you, on taking that first observation, mark the point on the deck?

A. No, we did not we had a base to start from.

Q. On taking the second one you measured from that base? [2450—1619]

A. We measured our distance from that base. If I recollect it was the starboard chock on the poop deck of the "Celtic Chief." That was our base, the after deck.

Q. And the next day she moved six feet? You got your first observation?

A. As we were formerly.

Q. Now, you took further observations, Captain?

A. We were continually watching those lines, continually at all times, day and night, we were watching the motion of the ship to sea if she would move in any direction.

Q. Now, did you, after Wednesday morning, notice any further movement of the ship?

A. Not in the morning.

Q. Not after Wednesday morning?

A. Not after Wednesday morning.

Q. Except the last night when she came off?

A. Except the last night.

Q. So can you say whether or not—I withdraw it. After the "Concord" and "Kaimilou" went in, Captain, with their loads as you have stated, did either of those vessels come out again or any other vessels

(Testimony of J. R. Macaulay.)

of the Miller Salvage Company, for the purpose of lightering? A. Not to my knowledge.

Q. You would have known it if they had sent them? A. I forget.

Mr. WEAVER.—Wednesday morning?

Mr. WARREN.—After they went was the question. Now, about lightering by the Inter-Island Company. When were the arrangements for that made, if you know?

A. I do not know when they were made.

Q. Were you present when Mr. Kennedy came out on the "Celtic Chief"? A. I was there then.

Q. Did you hear the conversation between him and the [2451—1620] captain?

A. I heard no conversation between the captain and Mr. Kennedy.

Q. They had a conversation, did they?

A. They did.

Q. How did the Inter-Island boats do this lightering work? You've already stated they did it with small boats; will you describe over again the operation that was carried on?

A. They transferred the cargo from the "Celtic Chief" to their boats in the ordinary manner in which they convey freight from the boats to the land with surf boats.

Q. Between the "Celtic Chief" and their own boats? A. And their own boats.

Q. And how was the cargo transferred to the small boats?

A. They used the ship's donkey to hoist the cargo out of the hold; sent the bags over with a yard-boom.

(Testimony of J. R. Macaulay.)

purchase and load the bags on to the boat.

Q. Did you notice how many bags to a sling?

A. As near as I can remember, I should say there was about three bags to the sling.

Q. Three?      A. About that.

Q. Do you know whether or not—I withdraw that. Do you know anything of the condition of the winch of the “Celtic Chief” during those leading operations?

A. The “Celtic Chief’s” winch wasn’t in very good condition.

Q. What was the matter with it, if you know?

A. They used considerable amount of salt brine occasionally and some would go down. There was considerable delay on that account.

Q. What effect does that have on the power of the [2452—1621] winch?

A. Well, the less steam the less power. The steam was the power.

Q. Do you know when the donkey came out on the barge to work on the other side?      A. Yes, I do.

Q. Did you watch those operations?

A. I spoke to Mr. Kennedy, President of the Inter-Island Steam Navigation Company, and made the suggestion to him that he hire the donkey from the stevedore firm, McCable, Hamilton & Renney and take her out alongside of the “Celtic Chief.” I considered it would be a good move on their part to facilitate matters and lighten the vessel.

Q. And about what time did that come out?

A. As near as I can recollect, the donkey scow came out in the afternoon sometime.

(Testimony of J. R. Macaulay.)

Q. What day?

A. I'm not positive about the time.

Q. How did the operation of that compare with the operation of the winch as to the number of bags in a sling?

A. Oh, there was no comparison between the two at all. The donkey-engine from shore was a very powerful engine and it seemed to me that she was discharging cargo there just as fast as she would alongside of a wharf.

Q. Now, Captain, in your judgment, in view of your experience to which you have testified, do you think there was any danger in these lightering operations to the boats of the Inter-Island Company?

A. I certainly do. [2453—1622]

Q. Why, what was the danger?

A. The danger was that the stranded ship was inside the line of breakers and the month was the month of December, liable for a heavy sea to run in there at any time. Now, at times, there were pretty heavy swells run in there alongside of the "Celtic Chief."

Q. On what day?

A. Well, all the time there was swells but the sea would moderate and raise, of course. The exact time I can't judge but it would vary, the swell varied at times.

Q. Well, directing your attention, say, to Tuesday afternoon, about how high do you think the swell was then alongside the "Celtic Chief," taking some of the largest swells that you observed?

A. Well, to the best of my belief I think the aver-

(Testimony of J. R. Macaulay.)

age swell would be somewhere about eight feet in height.

Q. That would be the average?

A. The average swell.

Q. Not higher than that? A. I don't think so.

Q. Occasionally?

A. I don't think so. Eight feet is a pretty good swell.

Q. In your judgment, was there any danger to the men operating the boats? A. There certainly was.

Q. What was that?

A. Well, if a boat would be tied up alongside of the "Celtic Chief" receiving cargo and one of those heavy swells would break, the result would be that the boat's supports, that the two lines making fast to the bow and stern of the boat would snap and give and the breakers liable to capsize and drown her crew.

Q. Would you say there was any danger of that on Wednesday and Tuesday? [2454—1623]

A. There was danger of that at any time in that special locality; any time.

Q. And there was on those days?

A. There was.

Q. Any danger to the men other than having their boats washed on the reef?

A. There was always danger in standing below the load of cargo.

Q. Would you say there was any more danger in those operations than operations say along the Hamakua coast in the Inter-Island trade? A. Yes.

Q. What would that be?



(Testimony of J. R. Macaulay.)

A. Along the Hamakua coast is very deep water and there are no sudden breakers coming in in deep water. When the weather changes on the Hamakua coast it gives you warning, but there is no warning given to you when you are inside the breakers on the reef on the lee side of the Island of Oahu. There is no warning. The sea may be perfectly smooth. All at once, and all of a sudden, a roller comes in there and curls over and breaks and if you're close to that breaker you're going to get capsized.

Q. What difference is there between working in deep water and very shallow water, Captain?

A. The sea doesn't break in deep water so quick as it does in shallow water. When a wave comes on it is free and meets no obstruction, as a rule. It doesn't break until it meets an obstruction and when a wave comes up against an obstruction it inclines a wave to curl and comb over. If there is no obstruction it does not act the same on the wave.

Q. In this case what would the obstruction be?

A. The reef, the ledge of the reef, would obstruct that body of water in its forward motion. [2455—1624]

Q. In your opinion was there any danger to any of the Inter-Island steamers that were pulling?

A. Yes, there was a danger.

Q. What would that be?

A. There was danger of them colliding. There was always a danger of their towing lines parting and getting foul of their propellers.

Q. How long would it take for a towing line to get foul of a propeller if it broke?

(Testimony of J. R. Macaulay.)

A. If the propeller is in motion it takes but a very short time to catch hold of any lines in that vicinity because the attraction from the propeller draws the lines in towards it.

Q. Suppose a rope broke and snapped back?

A. From the steamer?

Q. Parted a little distance out from the steamer and snapped back?

A. There wouldn't be so much danger because the wash from the propeller would keep that line clear.

Q. Any other danger to the Inter-Island boats, steamers.

A. No other danger that I can think of at the present time although there might have been dangers that I don't know anything about.

Q. Now, you've told us how the Miller anchor was laid and how the tackles were rigged up and that a strain was kept upon the hawser. I'll ask you, Captain, did you tell us just how the Miller line came over the stern? Did it go through a chock or anything of that sort? A. It did.

Q. What chock?

A. Stern chock on the starboard side.

Q. Over the poop deck? A. Over the poop deck.

Q. Now, you've said that the four-inch wire of the Miller Salvage Company from the anchor was shackled [2456—1625] to the manilla hawser about thirty or forty feet astern of the "Celtic Chief." That is, it was about that much short?

A. In addition to the manilla hawser there was two parts of a wire rope.

Q. You mean the wire itself? A. Yes.

(Testimony of J. R. Macaulay.)

Q. And this manilla hawser that was shackled to the four-inch wire was reinforced with two pieces of wire, inch-wire obtained from the ship? A. Yes.

Q. Now, how was that reinforcing wire attached down there at the shackle between the four-inch wire and the hawser?

A. The end, I believe, was rove through the shackle and both ends returned on the ship.

Q. So that both ends of this reinforcing wire were on the ship? A. On the ship.

Q. Referring now to that shackle connecting the manilla hawser to the four-inch wire of the Miller line, can you give us approximately the size of that, how much in circumference say?

A. Which shackle?

Q. The shackle between Miller's wire and his hawser? A. The size of his shackle?

Q. Approximately how many inches was it? How big a block? A. It was an extra large shackle.

Q. What kind of material? A. Iron shackle.

Q. Iron. And what was the size of the chock on the poop deck where the line came through, Captain?

A. It was ordinary sized chock for that class of a vessel.

Q. Was it larger or smaller than the shackle? [2457—1626] A. It was smaller.

Q. How do you know that?

A. Because it jammed in the chock.

Q. The shackle jammed in the chock?

A. Jammed in the chock.

Q. When did that happen?

(Testimony of J. R. Macaulay.)

A. It happened as the ship was coming off the reef.

Q. Did any part of the four-inch wire of the Miller line come on board the "Celtic Chief" through the chock? A. It did.

Q. When? A. After the shackle was jammed.

Q. After the shackle was jammed? A. Yes.

Q. About what time was it that that shackle got stuck in the chock?

A. Shortly after the ship started.

Q. Can you give us as nearly as you can about what time of night?

A. Well, it must have been somewhere between eleven and twelve o'clock. About there.

Q. Do you know about when the ship came off finally? A. I do.

Q. What time?

A. Will you permit me to use this memorandum to give you that time?

Q. That's the same memorandum you have referred to before? A. Yes.

Q. Very well.

(Witness consults document.)

A. However, through the assistance from shore we managed to float the ship at twenty minutes past twelve o'clock, Thursday, the ninth.

Q. Wednesday night? That would be Thursday morning?

A. Thursday, the ninth. [2458—1627]

Q. I see.

A. It was Thursday, after twelve o'clock midnight.

(Testimony of J. R. Macaulay.)

Q. Now, having that in mind, about how long prior to that hour, twelve-twenty, was it, as near as you can give it, when you noted the shackle of the Miller hawser stuck in the chock?

A. The ship moved the exact distance from the taffrail to the shackle before that shackle got jammed in the chock.

Q. That you say was—

A. She had actually moved that distance.

Q. That you say, was about thirty or forty feet?

A. Thirty or forty feet.

Q. Yes.

A. Then when the ship came to the shackle it jammed the chock. It had then moved the distance from the shackle to the taft.

Q. Can you tell us the lapse of time? Can you give us as near as possible, prior to twelve-twenty, it was that you noticed the shackle had got jammed? For instance, was it eight, nine, ten, or eleven o'clock, or later?

A. It was only a few minutes before the ship was actually floated; that is, clear of everything. When the shackle jammed that must have been about twelve o'clock.

Q. That's when you noticed it, is it?

A. That's when it jammed, yes. I was right there at the chock and so I helped to clear it.

Q. When it was jammed in that way what was the condition of the Miller line astern of the "Celtic Chief"?

A. The "Celtic Chief" continued to move. It continued. She never stopped; after she started she



(Testimony of J. R. Macaulay.)

continued to move. — On account of the shackle being jammed in the chock and the motion of the ship, consequently the wire slacked because they couldn't get the slack in on [2459—1628] account of this shackle being jammed.

Q. You say you got the shackle free?

A. We got that shackle free.

Q. How did you do that?

A. I took a capstan bar and knocked on the shackle and Captain Miller himself assisted to clear the shackle and by continuous knocking we eventually hove the shackle through the chock.

Q. How, after it was through, did it act?

A. When it got clear of the chock, it went right through with a rush because they got a terrific strain on their purchase at that time.

Q. On the chock?      A. On the chock.

Q. Did Captain Miller after that, at any time, get any more strain on his anchor-line?

A. He took in the slack but no strain.

Q. Why no strain?

A. Because the motion of the ship was more rapid than the motion of his wire.

Q. Now, at the time that the shackle got jammed and the ship kept moving do you know how the vessel was moving? How much aground was she at that time? How far aground was the "Celtic Chief" at the time the shackle got stuck?

A. She was practically afloat.

Q. She had moved thirty or forty feet?

A. She had moved thirty or forty feet. She was practically afloat at that time.

(Testimony of J. R. Macaulay.)

Q. And before that you think she was on shore more than her length or at least her length?

A. She wasn't ashore; she was afloat at that time.

Q. But I mean prior to that time she had been at least her own length on the reef?

A. Previous to that? Yes, she was her whole length on the reef. [2460—1629]

Q. So that after that time—oh, what did Captain Miller do in the effort to get a further strain on his line when the shackle came through the chock? Did Captain Miller do anything to get a strain on?

A. He certainly did. They worked like Trojans for a little while in order to get the slack in.

Q. They couldn't get a strain on because of the motion of the ship?

A. The motion of the ship was much quicker than that heaving purchase to take in the slack.

Q. Where were you, Captain, during all of Wednesday evening up to the time the ship came off, say from six o'clock on?

A. Well, I was around the ship all around the ship.

Q. Did you leave the ship at all?

A. I never left the ship from Sunday night until she was in Honolulu Harbor.

Q. What observations did you make during that evening as to the agencies working at the vessel? Did you observe them from time to time?

A. I did.

Q. How often?

A. Mr. Kennedy, of the Inter-Island Steam Navigation Company, came on board that afternoon and he asked me what was the chance of floating the

(Testimony of J. R. Macaulay.)

ship. I told him that—

Mr. OLSON.—I object to the question on the ground it is hearsay.

Mr. WARREN.—Who was present, Captain? Was the captain of the ship present?

A. There was quite a few people on the poop at that time.

Q. Do you know whether or not Captain Henry was there? [2461—1630]

A. I can't positively state who was there but I knew there was a number of people on the poop.

Q. Can you tell me how frequently you made observations of the lines of the different steamers that night?

A. I kept looking out for those lines constantly.

Q. You observed the lines of the Inter-Island steamers? A. I did.

Q. All of them? A. All of them.

Q. Frequently? A. Frequently.

Q. Now, what was the condition of their lines during the evening, Captain, of the Inter-Island steamers? A. All in good condition.

Q. And how were they in respect to the water—that is, as to being taut or otherwise?

A. At what time?

Q. During the evening?

A. They were pulling easy on the ship.

Q. And how were their lines?

A. Ordinary strain.

Q. Up to what time? A. Up to ten o'clock.

Q. What happened at ten o'clock?

A. Ten o'clock we hung a signal that was arranged

(Testimony of J. R. Macaulay.)

with the Inter-Island boats when to pull hard, in the mizzen rigging.

Q. What was the signal?

A. The signal was a red lantern.

Q. How many red lanterns in all?      A. Two.

Q. Now, will you explain a little more particularly what this signal was?

A. A red lantern in the mizzen rigging indicated to pull hard. One lantern, one red light was a signal [2462—1631] for all the Inter-Island steamers to pull hard.

Q. How many lanterns were there up in the rigging?

A. At ten o'clock there was one lantern. At half-past ten I asked Captain Henry to exhibit the second lantern that evening.

Q. Yes?

A. That meant to pull for all they were worth.

Q. Yes?

A. That was the signal to the Inter-Island steamers.

Q. Was that signal put up there?      A. It was.

Q. Did you see it put up?      A. I did.

Q. How soon after you made the request?

A. A very few minutes.

Q. So that you say that that second red lantern went up not more than a few minutes after ten-thirty?      A. A few minutes after ten-thirty.

Q. Now, if it has been testified in this case, Captain, by witnesses who have preceded you, that the second red lantern was not put up in the rigging of the "Celtic Chief" until she was already afloat; is

(Testimony of J. R. Macaulay.)

that correct? A. It is not.

Q. You are sure? A. I am positive.

Q. Was there any such thing as a third red lantern sent up that night? A. There was not.

Q. When did you first observe any motion of the "Celtic Chief," Captain, of any kind, either seaward or otherwise, that night?

A. I noticed a motion early in the evening of that night. The "Celtic Chief," I felt positive that she would come off sometime between ten o'clock that night and two o'clock in the morning. [2463—1632]

Mr. OLSON.—Move to strike the last statement, if the Court please, on the ground it is a conclusion of the witness.

Mr. WARREN.—I will not insist on it should the motion be granted. Captain, describe the motion that you felt early in the evening as you've said. What kind of a motion was it?

A. There's a certain lively motion to a vessel when the buoyancy of water inclines to float her. She's got a different motion entirely to what she has when she's solid on a rock or on a bottom. There's a peculiar lively motion to the vessel that you feel with the rising of the tide that it's difficult to describe.

Q. That was, you say, early in the evening? Can you give us an idea about what hour somewhere?

A. At six o'clock that evening Captain Henry and I—we went down into the cabin and we took the builders' scale. We figured that to lighten the ship forty tons more of her cargo would give her a draught of nineteen feet approximately.

Q. Give her draught of nineteen feet approxi-



(Testimony of J. R. Macaulay.)

mately? A. Yes.

Q. You mean a floating draught?

A. A floating draught of nineteen feet at high water.

Q. At high water?

A. At high water. The Inter-Island steamers continued to lighten the vessel.

Q. Before we pass that point, Captain, did you figure how much higher the vessel would rise in the water; that is, what change there would be in her floating draught by taking out forty tons? How many inches or feet? [2464—1633]

A. Yes, I did.

Q. How much? A. Two inches.

Q. So that by taking out forty tons would raise her two inches? A. Would raise her two inches.

Q. She'd float in nineteen feet of water?

A. She'd float in nineteen feet of water.

Q. What was the depth of water right at the "Celtic Chief," Captain? A. Nineteen feet.

Q. It was nineteen feet? A. Nineteen feet.

Q. At what time? A. At high water.

Q. About what time was high water that night?

A. High water that night was somewhere between one and two o'clock in the morning, Thursday morning.

Q. Do you know whether or not, as much as forty tons more of cargo was taken out after six o'clock?

A. I do not.

Q. Do you know about how many boat-loads were taken away? A. I do not.

Q. Without confining yourself to any particular

(Testimony of J. R. Macaulay.)

number was there one or more than one?

A. There was considerable more than one taken out after six o'clock.

Q. Would you say nearer ten or twenty or what?

A. I would not like to answer that question because I don't know. I don't feel I would be justified in answering the number of boats.

Q. I'll ask you whether it was nearer ten than twenty?

A. Somewhere between ten and twenty. I don't believe there was twenty. There might have been but I do not think there was.

Q. You think there might have been more than ten? [2465—1634]

A. There was quite a number of boats, I know.

Q. Do you know about how many tons to a boat-load? A. Well, the boat-loads varied.

Q. But the average boat?

A. Well, the average, I should say, from two to three tons—about three tons.

Q. The average load would be about three tons?

A. About three tons.

Q. Now, then, Captain, how long did that motion continue? Well, I don't believe you answered my previous question: 'About what time was it in the evening that you first noticed this different motion of the vessel as though the water were supporting her. You said early in the evening. Can you give us approximately?

A. Early in the evening I noticed a change in the motion of the ship, not to amount to very much, but at ten o'clock I felt sure that it was a matter of very

(Testimony of J. R. Macaulay.)

short time until she would float and consequently ordered the first red light placed in the mizzen rigging for the boats to start in pulling harder.

Q. When, Captain, did you observe the first seaward motion of the ship? When did she first really begin to move off the reef that you noticed?

A. It must have been shortly before, between eleven and twelve o'clock.

Q. Now, describe that motion. What sensation was it that you felt?

A. Well, she seemed to get livelier as the tide rose. I can't exactly explain to you the exact motion, but a lively motion; with every inch of tide she was livelier in the water and inclined to roll a little over one side or the other.

Q. I mean the first motion along the reef when her keel moved toward the sea in working off? [2466—1635]

A. That was between eleven and twelve o'clock.

Q. Yes. And how rapid or otherwise was that movement after it began?

A. It was very slow at first and increased as she went astern.

Q. Did you go below any time that evening, Captain? A. I did.

Q. Before or after the second red light went up?

A. After.

Q. About how long did you remain below?

A. Twenty minutes or a half an hour. Somewhere about there.

Q. And about what time would you say it was that you got out again and were on deck and thereafter

(Testimony of J. R. Macaulay.)

remained on deck?

A. I got on deck about a quarter past eleven; somewhere about there.

Q. And from that time on you did not leave the deck again? A. No, not afterwards.

Q. So that where were you when you first noticed the seaward motion? On deck or below?

A. On deck.

Q. Did you go below after that?

A. No, not after that.

Q. Not after the first seaward motion was observed? A. No, not after that.

Q. Did you, during the interval between the first motion to sea and up to the time the ship came off, make further observations of the Inter-Island steamers' lines? A. I did.

Q. What was their condition?

A. They were in good condition.

Q. I mean as to position and in respect to tautness or otherwise?

A. The Inter-Island [2467—1636] steamers, after the second red light was exhibited, they were pulling for all they were worth, as far as I knew.

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Q. How often after that, Captain, after the second red light went up on the rigging, did you observe the Inter-Island steamer lines?

A. I observed the steamers' lines after the second light was put up in the mizzen rigging, continuously, until the ship was finally anchored off Honolulu Har-

(Testimony of J. R. Macaulay.)

bor with one exception. We went below, the captain and I, to figure upon the ship's scale the amount of cargo that it would take to give the ship a draught of nineteen feet.

Q. That, I understood you to say, was about six o'clock on Wednesday?

A. We went very often down, very often. This figuring continued daily. The last time we went down there was no more to do; everything was prepared and our final conclusion was that we would find out how much cargo it would take to bring the ship up to a draught of nineteen feet at high water.

Q. And I understood you to say that this was determined about six o'clock, or what time did you reach that final conclusion?

A. I have taken no notes of time at all and it is hard for me to state any definite time because I took no notes of them and it's so long ago.

Q. Did you reach that conclusion before or after the second red light was set up in the rigging?

A. At six o'clock that evening, I believe, as near as [2468—1637] I can remember, it would take forty-ton of cargo to lighten the ship two inches. After that time the Inter-Island steamer boats were transferring the freight from the "Celtic Chief" to the steamers and we still continued to figure.

Q. Now, you observed the Inter-Island lines frequently that whole evening; will you state whether you, at any time, noticed any change in their lines as to the degree of strain upon them?

A. I did not notice any change in the strain after the second light was exhibited.



(Testimony of J. R. Macaulay.)

Q. What evidence was there of strain after the second red light went up? What was there to indicate to your mind that there was a strain on the Inter-Island lines?

A. By actual observations of those lines I could see the lines straightened out to the steamers and I could see the white water under their propellers there was washing up and mostly any person could see that those steamers were pulling for all they were worth.

Q. What time, Captain, did the "Arcona" first come out there, as near as you can remember?

A. As near as I can remember, the "Arcona" came out there, I think it was Wednesday forenoon or Wednesday noon; sometime about noon.

Q. What did she do on coming out—the first thing she did?

A. She came out and she let go an anchor in about the same position that the tug "Intrepid" held; a little to the southward of the tug "Intrepid."

Mr. WARREN.—At this time, I'd like to offer in evidence the sketch made by Captain McCaulay on Friday of [2469—1638] the position of the "Celtic Chief" and the relative positions of the "Mikahala," "Arcona," Miller anchor, "Helene," and "Likelike," and their respective lines and anchor-lines.

The COURT.—It may be received.

(Libellant's Exhibit "G.")

Mr. WARREN.—Referring, now, to the document just mentioned, Captain, which has just been marked Libellant's Exhibit "G," I'll ask you to please indicate on this map the point where the "Arcona" first

(Testimony of J. R. Macaulay.)

dropped her anchor as you've just stated.

(Witness marks on exhibit.)

A. She dropped her anchor somewhere about here.

Q. Will you please draw an anchor there?

(Witness draws.)

Q. Will you mark that with a capital "A"?

(Witness marks.)

Q. Now, the anchor and the letter "A" as now drawn, indicate the position of the "Arcona's" anchor as first dropped; is that it, Captain?

A. Yes, sir.

Q. The "Arcona" having thus dropped her anchor, Captain, what did she do next?

A. She backed her engines astern.

Q. In what direction?

A. Towards the "Celtic Chief."

Q. And what did she then do?

A. Then she found out that she was afoul the steamer to the westward of her.

Q. What steamer was that?

A. I believe it was the steamer "Helene."

Q. How do you mean, afoul of the "Helene"?  
[2470—1639]

A. She, the current was setting to the westward and the wind was blowing towards the southwest and she was too close down to the "Helene" to operate. Before getting fast to the "Celtic Chief" she would be afoul of the "Helene." The place was too narrow.

Q. You've just spoken of current. Now, I'd like to refer to this other map we filed, which is marked Libellant's Exhibit "F," on which appears an arrow marked current, this being right close to the edge of

(Testimony of J. R. Macaulay.)

the reef. Now, Captain, will you tell us if there is any difference in the direction of the current out where these steamers are, particularly where the "Arcona" was at the time you have just mentioned? Can you indicate on Libellant's Exhibit "G" the direction of the current in this vicinity?

A. This arrow marked current—

Q. You are now referring to Exhibit "F"?

A. This current marked with an arrow indicated the general trend of the current; that's in the open sea along the lee side of the Island of Oahu. For instance, this current when it comes to the reef it follows the reef and remains a curve into the bays and out as it follows the reef. Just the general trend of the current from east to west until it strikes anything then it goes to the northwest.

Q. Does that indicate the current at this precise place? A. No, it does not.

Q. Will you then, will you please indicate on this map the precise direction of the current at the precise location as she was ashore?

Mr. OLSON.—I object on the ground that that question has been asked and answered and the captain did draw [2471—1640] that at that place.

The COURT.—The objection is overruled.

Mr. WARREN.—Do I understand from your answer this morning, Captain, that the arrow which is on Exhibit "F" is not correct?

A. It is correct as far as general trend of current is concerned, but that goes into Barber's Point. It goes in this westerly direction, then we come to Waianae Bay; that current goes into Waianae Bay and follows the trend of the land toward Kaena

(Testimony of J. R. Macaulay.)

Point. At Kaena Point there is no more obstruction to this northwesterly current. It takes a northwesterly direction. But all those points and bays the current follows.

Q. Then at this precise spot where the "Celtic Chief" went ashore, what is the current, direction of the current?

A. It forms a curve there according to the shape of the reef, but it goes along there and comes out at this point of the reef there and continues on this course right along until it comes to the extreme west of the Island and follows the reef.

Q. What we want to get at, Captain, the real direction of the current at the spot the "Celtic Chief" was ashore.

A. You can get the real trend of the current towards the reef by following a parallel line to the edge of the reef.

Q. And the edge of the reef is that—

A. A parallel line with that line of the reef would be the line of current in that vicinity.

Q. Is there any variation in that current further out where the pulling steamers were, as to direction? A. There is a change. [2472—1641]

Q. In what direction? Would that direction be inshore?

A. Inshore at that particular point but not as much as it would be in the exact location of the stranded vessel.

Q. When the "Arcona" dropped her first anchor you say she backed up, what time was it?

A. She picked up her anchor and steamed ahead.

Q. What direction? A. About southeast.

(Testimony of J. R. Macaulay.)

Q. How with respect to Diamond Head?

A. Well, she had Diamond Head on her port bow about four points.

Q. Will you describe her further movements?

A. She let go her port anchor.

Q. Where?

A. Outside of the "Mikahala" and a little to the eastward of the "Mikahala."

Q. I hand you again the sketch you have made, marked Libellant's Exhibit "G," showing the "Arcona" with an anchor out and a line attached. Where, with respect to that, was that anchor dropped? A. About there, right about that spot.

Q. As it's shown? A. Yes.

Q. Now, will you mark on this sketch by that anchor a capital letter "B"?

(Witness marks.)

Q. That indicates the spot where the "Arcona" dropped her anchor the second time?

A. About that.

Q. Did she, after that, pick up her anchor?

A. No, she did not, to my knowledge.

Q. That is during that evening?

A. During that evening.

Q. If she had, would you have known it?

A. I would.

Q. How do you know, Captain, that it was dropped in that [2473—1642] particular place marked "B" on this sketch?

A. I don't know it was dropped on that particular spot, but it was close in that vicinity.

Q. How could you determine that it was in that vicinity?



(Testimony of J. R. Macaulay.)

A. I saw the splash of the anchor when it was dropped, from the poop of the "Celtic Chief."

Q. You were standing on the poop of the "Celtic Chief"? A. I was standing on the poop.

Q. Now, Captain, imagine a line drawn from the poop of the "Celtic Chief" where you were standing, out to the "Mikahala" and extended beyond the "Mikahala." Where, with respect to that line, was the "Arcona's" anchor dropped? How near to that line? A. Will you please read that question?

(Question read.)

A. From the position I held on the poop deck of the "Celtic Chief," the "Arcona's" anchor would be in line, bearing by compass approximately about southeast, magnetic.

Q. How did that bearing compare with the position of the "Mikahala"?

A. The position of the "Mikahala" at that time, as near as I can remember, would bear about southeast by south, magnetic.

Q. Will you kindly mark on this sketch, a compass diagram so that the bearings can be determined from that?

(Witness is handed Exhibit "G.")

A. Now, this compass diagram will not be true; cannot be. It is not possible, but as near as I can figure it, I'll put it as near the truth as I can get it. I will call that north and south. We should have a base to work from on this. I know positively that the "Celtic Chief" was bearing by compass, was heading by compass, north, [2474—1643] I believe, ten degrees west. I'm almost positive that

(Testimony of J. R. Macaulay.)

was her bearing by compass so you can get a base from that.

Mr. WARREN.—You might draw that, Captain.

A. That will be about the north line, north and south line. I allow that on the line of the “Celtic Chief.” It’s just a little bit more. Now, this is east, northeast. You wish me to fill it out?

Q. Yes, please.

(Witness writes on sketch.)

Q. As you have drawn the position of the “Arcona” anchor in the position “B,” it is practically ahead of the “Mikahala”?

A. It’s a little to the eastward of the “Mikahala.” There would be the line of the “Mikahala.” Do you wish me to put that line in?

Q. Make a small cross where you just made that mark.

(Witness marks on sketch.)

Q. You have now made a small cross on the anchor-line of the “Arcona” close to the anchor “B,” which cross you say is the line of the “Mikahala”?

A. Yes, sir.

Q. From the “Celtic Chief”?

A. Yes, sir.

Q. How do you know, Captain, the anchor was dropped as far over as that?

Mr. OLSON.—Object to the question on the ground it has been asked and answered.

Mr. WARREN.—Did you see it dropped, Captain?

Mr. OLSON.—I object to the question. It has been asked and answered.

The COURT.—I’m sure that’s been answered.

Mr. WARREN.—About how far ahead of the

(Testimony of J. R. Macaulay.)

"Mikahala," Captain, was the "Arcona" anchor dropped at position "B," approximately?

A. Oh, I couldn't state [2475—1644] positively how far it was. I wouldn't care to answer that question very much because I couldn't state the distance.

Q. You could say whether it would be nearer one hundred, two hundred, three hundred, feet or a thousand?

A. Oh, it was less than a thousand feet.

Q. Less than five hundred?

A. Yes, it was less than five hundred. It must have been three or four hundred feet. Somewhere around there.

Q. Now, Captain, when the "Arcona" dropped her anchor in position "B," what did she do?

A. She backed in stern with her engine towards the "Celtic Chief."

Q. By the way, Captain, which anchor did she drop? A. Port anchor.

Q. And how far did she back up, back in?

A. She backed in within five hundred feet of the "Celtic Chief." Thereabouts.

Q. And what did she do then?

A. She ran a messenger line to the "Celtic Chief"; about a four-inch hemp line.

Q. Hemp? A. Hemp.

Q. Will you continue to describe her operations?

A. They took that hemp messenger line to the steam winch of the "Celtic Chief," the drum on the starboard side of the "Celtic Chief" steam winch and they hove on board a wire rope.

Q. Do you know what size?

(Testimony of J. R. Macaulay.)

A. Looked to me like an inch wire, in diameter.

Q. And then what?

A. They made it fast to the "Celtic Chief."

Q. Will you continue, please? [2476—1645]

A. After the line was made fast to the "Celtic Chief" they steamed ahead.

Q. The "Arcona"?

A. The "Arcona," and carried away that wire.

Q. How much steaming did she do before that happened?

A. She parted the line directly after she started ahead. Just as soon as a severe strain came upon that wire, it parted.

Q. And then what happened?

A. They run her messenger line the second time, and sent, I believe it was, the same wire on board the "Celtic Chief" and made it fast as they did on the former occasion. After the line was made fast, I advised the executive officer not to heave and break the line but to keep a steady strain on it and wait for high water. If he started to pull the ship off the reef at low tide with that small line, it would surely break it.

Q. Well, about what was the condition of the tide at that time? A. It was low tide.

Q. About what time of day if you can remember?

A. I can't remember the time of the day. I took no note of the time at all. It was a continuous day for me all the time. I took no note of the time whatsoever only when we got off.

Q. You gave that advice and what was then done?

A. They hove an ordinary strain on the line and let it go at that for the time being, then the executive

(Testimony of J. R. Macaulay.)

officer asked the master of the "Celtic Chief" if he had any wire ropes. He said he had and they took it out of the hold, a brand new wire rope.

Q. Right here, Captain, I'd like to ask you if you observed the line that the "Arcona" put on first and which [2477—1646] broke. Did you look at its condition? A. I did.

Q. Will you state what that was?

A. It was very rusty.

Q. Did you take hold of it?

A. No, I did not.

Q. How near were you to it?

A. Within a foot of it; standing right close to the wire.

Q. Anything else about its appearance that you could mention?

A. No, only it was rusty; a rusty wire.

Q. Now, you say the "Celtic Chief" wire was brand new? A. Brand new wire.

Q. What was its size?

A. It was somewhat larger than the "Arcona's" wire. It's size I don't know, but it looked to me as if it was a little bigger in diameter.

Q. What was done with that?

A. The "Arcona's" boat's crew bent on a messenger on to that line and ran it to the "Celtic Chief." They hove on that wire until they came to the end. The end was made fast on the port side to the bitts at the break of the poop. Then they found out that line wasn't long enough to reach the "Arcona" but mighty close to it. Now, they bent something on from the "Arcona" to the end of that new wire. What they bent on I don't know because I never left



(Testimony of J. R. Macaulay.)

the "Celtic Chief," but they bent on more line or lines on to this brand new wire. Then I advised the executive officer, "Now, sir, you have your ship ready and I'd advise you to wait until high tide and then you are ready to pull. If you start in pulling now at low water you will surely break those lines."

Q. Do you know anything about the anchors of the "Celtic [2478—1647] Chief," Captain, that afternoon? A. I do.

Q. Did you have anything to do with the "Celtic Chief" anchors that afternoon? A. I did.

Q. About what time was that? What else was going on while you were doing that, if you know?

A. The Inter-Island Company, they were lightering the ship and secured other boats. The Miller Salvage Co. were at work with their ground tackle.

Q. I mean more particularly the "Arcona."

A. The "Arcona" was, that afternoon, preparing to pull the ship off and attaching those two wires. In the meantime I was all around the ship and we had tried all that day to get the starboard anchor, the ship's starboard anchor to run out. The mate and his whole watch worked over a day trying to unshackle that starboard anchor. The master of the ship and I, we looked and inspected all her anchors. She had a kedge anchor, very small line anchor and also a bow anchor, and she had two anchors on her bow and one spare bow anchor, and we found it was no use for us to run that small kedge anchor, neither the bow anchor—the best to do would be to run the starboard bow anchor, so we started. We hired one of Young Brothers' lighter scows and the lighter scow came off to the "Celtic Chief" and anchored

(Testimony of J. R. Macaulay.)

right under her starboard bow to receive that starboard anchor. The mate worked at that cable a whole day and part of the night and could not unshackle that anchor-chain. By this time the Miller Salvage Company had their ground tackle, so we gave up the idea to get [2479—1648] the starboard anchor off the bow and took the Miller Salvage anchor. If we had succeeded in using the ship's own anchor it wouldn't have been necessary for us to take the Miller Salvage anchor.

Q. What was the size of the "Celtic Chief" anchor, starboard anchor?

A. The "Celtic Chief's" anchors were in the neighborhood of five tons.

Q. Now, Captain, you've told us of two lines of the "Arcona" that were on after she broke the first one. Were there any other lines between the "Arcona" and the "Celtic Chief"?

A. There was that messenger line. They had a messenger line in case that any of those wires would carry away they had this messenger ready to heave a wire. In fact, we did start and the executive officer of the "Arcona" told us that they had a very powerful wire, very heavy and powerful wire, and they would try to get that on board.

Q. When were they trying that?

A. That was Wednesday afternoon, I believe, as near as I can remember.

Q. Was that before or after the "Arcona" broke her wire?

A. It was after she broke her first wire.

Q. Was it before or after she got the two fastened on?

(Testimony of J. R. Macaulay.)

A. Now, I can't remember. It was some time in the afternoon, that I know.

Q. Do you what they did about that?

A. Yes.

Q. Will you tell us that, please?

A. They bent this messenger on to this heavy wire and they got it hove as taut as ever they could. They couldn't get it no more and the messenger parted, so they hove it a second time and bent on to this heavy [2480—1649] wire and I believe it parted a second time. I don't know exactly how many times it did part.

Q. Where were you?

A. I was on the poop of the "Celtic Chief," but, however, they gave it up and said they couldn't get it on.

Q. Do you know why they couldn't get it on; what prevented?

A. The messenger line parted two or three times. Too heavy. That heavy wire, I suppose, digging into the sand and so heavy that the messenger wasn't strong enough. However, they gave it up.

Q. Now, then, after the two wires of the "Arcona" were made fast, as you have described, what position did the "Arcona" assume?

A. She didn't change her position at all.

Q. She then had the position that she kept afterwards during the evening?

A. According to that diagram.

Q. That is the fact. You have drawn it on Libellant's Exhibit "G," which I now hold? A. Yes.

Q. That is the position that the "Arcona" assumed after the two lines were put on and maintained there-

(Testimony of J. R. Macaulay.)

after? A. That's the position.

Q. In that position, Captain, about how far was she from the "Mikahala," as near as you can fix it?

A. She was, I should judge, about a hundred and forty feet or so from the "Mikahala."

Q. And about how far would you say, from the "Helene"? A. About the same.

Q. What was the position of the "Arcona" with respect to the Miller anchor?

A. The Miller anchor was pretty close to the "Arcona" on her starboard side. [2481—1650]

Q. That is intended to be shown by this sketch, Exhibit "F"? A. Yes, sir.

Q. The anchor being marked number two?

A. Yes, sir.

Q. Do you know anything about a buoy on the Miller anchor? A. The Miller anchor?

Q. Yes. A. It was buoyed.

Q. Where did that buoy float?

A. Directly above the anchor.

Q. Now, Captain, during Wednesday evening, from dark on, from the time that the "Celtic Chief" got her lines fast on, I mean the "Arcona," did you observe the "Arcona's" lines to the "Celtic Chief"?

A. I did.

Q. About how often?

A. While I remained on the poop there, the whole afternoon and evening, taking in the situation as it was exactly, and I observed the "Arcona's" lines just the same as any other vessel that was pulling, came to the rescue of the ship. Just the same as I did the Inter-Island boats and the same as I did the Miller Salvage Company's gear.

(Testimony of J. R. Macaulay.)

Q. Now, describe the position of the "Arcona's" lines that evening with respect to the water.

A. Well, they were, the "Arcona" was not pulling on them at all. They were fast, the line was fast to the "Celtic Chief" and also to the "Arcona," and I suppose when the executive officer went on board and communicated with the commander, that they did all they could for the time being to assist the ship. Ordinary strain on the chain-cable and also an ordinary strain on the wire. Nothing excessive.

Q. Were her lines in or out of the water?  
[2482—1651]

A. The bight of her lines were in the water.

Q. Do you know whether or not she pulled with her propeller?

A. No, she didn't pull with her propeller at that time.

Q. Do you know whether or not she heaved on her anchor-line?

Mr. OLSON.—I object on the ground it was impossible, according to the testimony, for him to observe.

Mr. WARREN.—Withdraw the question. Captain, if the "Arcona" had heaved on the anchor-chain, could you have observed, known it, from your position on the "Celtic Chief"?

A. Well, I believe that after the "Arcona" made her lines fast to the "Celtic Chief" at that particular, naturally, she would, they would place the ship in a position to pull. They may have taken in a few fathoms with her chain-cable to put her in that position and that's about all they could do at that particular time.



(Testimony of J. R. Macaulay.)

Q. That is, low water?

A. At low water. Possibly they did heave in a little on their chain tackle to get the ship ready for to pull at the important moment.

Q. Now, after they had gotten the "Arcona" into position and as she lay there at low water, did she, after that put any strain on her lines to pull on the "Celtic Chief"?

A. Previous to her floating?

Q. Yes, previous to her floating.

A. No, she did not.

Q. How do you know that?

A. Because I saw the line.

Q. How were her lines?

A. In the same condition as they were before.

[2483—1652]

Q. But you said before there was some little strain on them; what did you mean by that?

A. I said before that the bight of the wires were in the water.

Q. If she had pulled what would have happened to those lines? A. She'd have broken them.

Q. I don't mean with her propeller exactly. If she had strained on her anchor-line or strained on her stern lines, how would that have affected the position of her stern lines to the "Celtic Chief"?

A. If she had hove an extra strain on her lines and chain-cable it would not have altered the ship's position.

Q. Ship's?

A. The "Arcona's" position to the southward and eastward.

Q. Why?

(Testimony of J. R. Macaulay.)

A. On account of where she had laid her port anchor.

Q. How far from that would she move?

A. She would move ahead until the anchor would be in line with the keel of the ship.

Q. And that would bring her where?

A. Her bow over the southward and eastward.

Q. And how with respect to the "Mikahala"?

A. She would then be on a line of crossing the "Mikahala's" bow.

Q. Did she move out of that position that you have indicated on this map at any time during that evening? A. She did not.

Q. Now, did you notice the "Arcona's" lines during the time the "Celtic Chief" was first beginning her seaward movement? A. I did. [2484—1653]

Q. How were they then?

A. In the same condition only slacking up as the "Celtic Chief" came astern.

Q. They were slacking up?

A. They were slacking up as the ship went astern and the "Arcona's" wires slacked up.

Q. And during the remainder of the time the ship was coming off; how were they then?

A. They continued to slack up.

Q. And how were the other lines of the Inter-Island steamers at that time?

A. They were pulling hard.

Q. Now, when the "Celtic Chief" came off how did she move, in what direction? A. Right astern.

Q. Toward what other vessel?

A. Directly towards the "Arcona."

Q. About how fast was she moving?

(Testimony of J. R. Macaulay.)

A. Very slowly, but as she went astern she gathered sternway and later on she kept increasing her momentum as she went astern.

Q. How would she do that?

A. Well, as the ship floated there was no obstruction and the "Mikahala" and the "Helene" and the Miller Salvage Company's anchor and "Likelike" and those boats pulling.

Q. What happened to the lines of the "Helene" and "Likelike" when the "Celtic Chief" came off?

A. They had made an arrangement early in the afternoon that the "Mikahala," after the ship was floated, would take the "Celtic Chief" in tow and we would let go all the other lines from the different vessels, the Miller Salvage Company's ground tackle included. However, the commander of the "Arcona" wished to take charge of [2485—1654] the "Celtic Chief" after she was floated and bring her to an anchorage.

Q. Were you present at any conversation between the commander of the "Arcona" and Captain Henry on this subject? A. I was.

Q. Just what was the arrangement made?

A. Not with the commander, but with his executive officer.

Q. There was an arrangement made as to what the "Arcona" was to do?

A. The executive officer informed me that it was the commander's wish that when the vessel was floated off the reef that they would tow the vessel to an anchorage off Honolulu Harbor. I communicated that information to the superintendent of the Inter-Island Steam Navigation Company.

(Testimony of J. R. Macaulay.)

Q. And then what was done, what arrangement was made? A. That arrangement was made.

Q. For the "Arcona" to take charge of the "Celtic Chief"?

A. That the "Arcona" should take charge of the vessel and bring her to a safe anchorage off Honolulu Harbor. That was the arrangement.

Q. In that discussion in connection with that arrangement, was there anything said with respect to what the "Arcona" would do prior to the "Celtic Chief" coming off? A. There was.

Q. What was it?

A. The executive officer of the "Arcona" informed me that he would send on board a signal-man to exhibit signal lights to the "Arcona" whenever the ship moved and when she moved rapidly and when the ship was afloat. They would burn those signals to inform the "Arcona" of the movements of the vessel.

Q. What was the "Arcona" to do on those signals being given? [2486—1655]

A. When the "Celtic Chief" was floated off the reef, the arrangement was made that the "Arcona" should take the vessel and tow her to a safe anchorage. That was the arrangement.

Q. Well, was the "Arcona" to do anything prior to that?

A. She was there, the "Arcona" was there to assist in pulling the vessel off the reef. That was her first object. Her second was to tow the ship to a safe anchorage off Honolulu Harbor.

Q. Now, we'll go back to my question as to what was done with the lines of the "Helene" and the

(Testimony of J. R. Macaulay.)

"Likelike" when the "Celtic Chief" came off.

A. When the "Celtic Chief" was floated, the Superintendent of the Inter-Island Steam Navigation Company ordered the "Likelike's" lines cut first, then the "Helene," her lines was to be let go second. The "Mikahala" was to remain by the ship to assist the "Arcona" in her endeavor to take the ship to a safe anchorage.

Q. Now, what was actually done with the "Likelike" line?

A. It was cut at the bitts on the port side.

Q. And the "Helene's"?

A. The "Helene's" line was let go and cut also on the port side.

Q. Now, the "Mikahala." What did the "Mikahala" do as soon as the "Celtic Chief" came off?

A. As soon as the "Celtic Chief" commenced to move astern she went right straight for the "Arcona," just as straight as she could go. The "Arcona's" officer was standing beside me on the poop deck. I said, "Why don't you steam ahead? We'll be into your boat." And he gave all his information to the commander in German. Of course, I couldn't understand what he was saying in German, but [2487—1656] he spoke English very well, and I believe—

Mr. OLSON.—I object if Mr. Macaulay is about to say what it is the man said.

The COURT.—Objection sustained.

A. I said, "Why don't you go ahead with your ship"?

Q. Did he make any answer to you? A. He did.

Q. What did he say?



(Testimony of J. R. Macaulay.)

A. I forget what he did say.

Q. What was done? What did he do?

A. Nothing; there was nothing done that I could see.

Q. What time were those lights sent up that you spoke about, those signals, fire lights to the "Arcona"?

A. After the "Celtic Chief" had started.

Q. Before or after you asked him why he didn't get his engine started? A. About that time.

Q. Well, did you say anything further to him?

A. Yes, I did.

Q. What?

A. Says I, "Heave away on your winches; you can surely heave away on your anchor-chain."

Q. What did he say?

A. He gave them an order in German and they did heave away on the anchor-chain.

Q. Now, about how far had the "Celtic Chief" moved from the reef toward the "Arcona" when heaving was finally begun on her anchors?

Mr. OLSON.—Object to the question on the ground that it assumes that the "Celtic Chief" had moved away from the reef, whereas the testimony is nothing of the kind.

Q. After the "Celtic Chief" was floated, Captain, you say she moved straight toward the "Celtic Chief," did she?

A. She moved straight towards the "Arcona."  
[2488—1657]

Q. I mean the "Arcona." And how near did she come to the "Arcona," how close?

A. Less than a hundred feet.

(Testimony of J. R. Macaulay.)

Q. Now, did she begin heaving on her—did the "Arcona" begin heaving on her anchor before or after she had got within that distance of the "Celtic Chief"? A. At that time.

Q. What was the "Mikahala" doing during this time?

A. She was pulling her off; she was pulling, trying to save the "Celtic Chief" from collision with the "Arcona" to the eastward.

Q. When did the "Arcona" start her engines?

A. A few minutes after that time.

Q. How were the lines of the "Arcona" at the time when the "Celtic Chief" was within, you say, a hundred feet of her? A. They were more slack.

Q. And where were they, which side of the ship?

A. Both sides of the ship. The two lines were very slack, laying down to a bight at that time.

Q. Now, when the "Arcona" began steaming out she towed the "Celtic Chief" out, did she?

A. Afterwards she towed the "Celtic Chief," yes.

Q. Now, how was—how were her lines made fast to the "Celtic Chief" in that operation of towing out? How were they fastened on to the "Celtic Chief"?

A. The wire belonging to the "Celtic Chief" was made fast on the "Celtic Chief's" port quarter, attached to the "Arcona's" starboard quarter, and the other wire fast to the "Celtic Chief's" starboard quarter, attached to the "Arcona's" port quarter.

Q. How long did they remain so attached during the towing operations?

A. They remained so attached [2489—1658]

(Testimony of J. R. Macaulay.)

for about, I should judge, three-quarters to a mile from the reef.

Q. Then what happened? How did the "Celtic Chief" manoeuver?

A. We went right straight south, right straight to the southward.

Q. What was the motion of the "Celtic Chief" in following the "Arcona"? A. Stern motion.

Q. How far south did you go?

A. About three-quarters of a mile south.

Q. During that time, while the "Arcona" was towing you out was there any conversation between the "Celtic Chief" and the "Arcona" with respect to what was to be done? A. Yes, there was.

Mr. OLSON.—If the Court please, this is getting fairly leading.

Q. Tell us what it was, Captain.

A. The executive officer and I, we stood together aft on the starboard side of the poop. I asked the executive officer if he would please turn around to the eastward more so that we could get to our anchorage. We got so far off to the southward that the ship had too much sternway to steer her. We were going at a rapid rate further out to sea. He informed me that the commander said that he didn't wish to turn the ship on account of fouling his propeller with those lines. I suggested that he would let go one wire, one wire was sufficient to tow the ship, the ship was afloat, and they did let go one wire.

Q. Which one did they let go?

A. The new one. We hauled it in. Then he swung his ship and went slow, but in approaching the anchorage, after making this great big circle, he

(Testimony of J. R. Macaulay.)

hailed the commander [2490—1659] of the "Arcona," hailed his executive officer and he told him that he did not wish to pull any more, that he wished to let go his line entirely. The executive officer told me what the commander wished. I said, "Why, we are in the open sea, and if you're going to let go your line after making an arrangement to tow the ship to an anchorage the thing is impossible if we have no Inter-Island boats."

Q. Was anything said about anchoring the "Celtic Chief"?

Mr. OLSON.—I object to the question on the ground it is leading.

The COURT.—Objection is sustained.

Q. What did he reply to that objection.

A. He replied that he had to carry out the commander's orders and they let go the line. The boat's crew came from the "Arcona" and took the executive officer on board his own ship and that was the last that I had anything to do with the "Arcona."

Q. Were there any other arrangements made for handling the "Celtic Chief" at that time?

A. Previously there was.

Q. I mean out there at sea, what arrangement was next made for handling the "Celtic Chief."

A. Captain Henry, master of the "Celtic Chief," asked the Superintendent of the Inter-Island Steam Navigation Company if he would take his vessel into Honolulu or to an anchorage off the harbor. They seemed to have a few words over that. The superintendent and the master of the ship. In fact, he said, "You've made arrangements with the 'Arcona' to bring your ship to an anchorage and now my boats

(Testimony of J. R. Macaulay.)

are here and there and everywhere. Why [2491—1660] doesn't the 'Arcona' finish the arrangement that you have made?" However, they came to an understanding and got friendly about it and the Superintendent of the Inter-Island Steam Navigation Company ordered the "Likelike" to take the ship in tow.

Q. How did he communicate his orders?

A. I believe that the superintendent went to the top-gallant —— and hailed the "Likelike."

Q. What then was done?

A. The "Likelike" took the ship in tow and brought her to an anchorage off the regular anchorage of Honolulu Harbor.

Q. And what then? They brought her to the anchorage?

A. We anchored in about fourteen fathoms of water for the night.

Q. And in the morning what was done?

A. The following morning the Inter-Island boat, took her into Honolulu Harbor, where I turned the vessel over to the Assistant Harbormaster.

Q. Now, during that evening, during pulling operations, could the "Arcona" have gotten a strain on her lines and you not have known it?

A. She could not.

Q. Now, do you know whether or not, during Wednesday afternoon or any time on Wednesday, there were any conversations between the captain or executive officer of the "Arcona" and Captain Henry of the "Celtic Chief" with respect to operations, how they should be carried out?



(Testimony of J. R. Macaulay.)

A. Yes, there was conversation when the executive officer informed Captain Henry that it was the other commander's wish to take the vessel in tow and what they should do and in regard to those signals. That was all done in the afternoon.

Q. Do you know whether or not any suggestions or advice [2492—1661] were offered by the officers of the "Arcona"? A. I do.

Q. With respect to "Celtic Chief" operations?

A. I do.

Q. Well, tell us some of that.

A. On Monday the commander with his executive officer and some others from shore came on board and they offered their services to assist in getting the ship off the reef. The commander suggested that they would take a hawser wire, hawser off the "Celtic Chief's" starboard bow and pull her bow around broadside on to the reef and try to pull her in that direction. After they had this consultation, the master of the "Celtic Chief" told me of what the commander of the "Arcona" wished to do.

Mr. OLSON.—Now, just a moment. Unless it appears that Captain Macaulay heard this advice given I move to have this stricken as hearsay.

Mr. WARREN.—You didn't hear that, Captain?

A. Only from the captain.

Mr. OLSON.—Move to strike.

Mr. WARREN.—No objection.

Q. Was that done, Captain? A. It was not.

Q. Why not?

A. It was the very movement we wished to avoid, to prevent the ship from going broadside on the reef,

(Testimony of J. R. Macaulay.)

and the idea to heave her around to get her in that position that we were trying to avoid was absurd, in my opinion.

Mr. OLSON.—Move to strike on the ground it is incompetent, irrelevant, and immaterial, and a conclusion of the witness. I move it all be stricken on the ground [2493—1662] that the witness is talking about something that there is nothing about in the record.

The COURT.—The motion is granted.

Q. You were telling us about Monday, Captain, that there was a conversation. It now appears that you didn't hear that yourself, but did you, on Tuesday or Wednesday, hear any conversation between the captain of the "Arcona" or the executive officer and Captain Henry in which any suggestions were made by the "Arcona's" officers respecting the "Celtic Chief" operations? A. I did.

Q. What was that?

A. It was in regard to taking this hawser on the starboard bow.

Q. That was what day?

A. I can't remember the days. I can't remember the days or the hours at all. I didn't take any note of that.

Q. You say you heard that from the executive officer or captain of the "Arcona"?

A. The executive officer of the "Arcona," Captain Henry, and the Superintendent of the Inter-Island Steam Navigation Company and myself were on the poop.

Q. All right; now tell us that conversation.

(Testimony of J. R. Macaulay.)

A. And the executive officer said right then that it was the commander's idea to take a line on that star-board bow and slue the ship around. Captain Henry asked me my opinion of that movement.

Q. In the presence of the others?

A. In the presence of the others.

Q. Very well. Will you continue?

A. I told Captain Henry that that was just the very thing we were trying to avoid, getting the ship broadside on the reef and I would not advise him to do anything [2494—1663] of the kind. The ship—it was simply ship's suicide in my estimation to do such a thing. As near as I can remember, the Superintendent of the Inter-Island Steam Navigation Company had the same opinion.

Q. Captain, did you—have you told us as fully as you can remember all of the operations of the "Arcona" on this occasion of the "Celtic Chief" being stranded?

A. I noticed every movement of the "Arcona" from the time she came off until the time she returned to Honolulu Harbor; after she let go the "Celtic Chief" she went right into the harbor for the night.

Q. Now, Captain, can you tell us, in view of your experience as a mariner and knowledge of navigation, some salvage, what assistance, if any, the "Arcona" was to the "Celtic Chief" at any time at all?

Mr. OLSON.—Object to the question on the ground it is calling for the conclusion of the witness, the witness having already testified what the "Arcona" did do. It is for the Court to decide what that as-

(Testimony of J. R. Macaulay.)

sistance amounted to from the testimony.

Mr. WARREN.—Add to my question by saying, so far as forwarding the operations of all parties are concerned.

Mr. OLSON.—Object to the question further on the ground it is unintelligible.

Mr. WARREN.—I'll withdraw that question and put another. Can you state whether or not, Captain, in view of your experience as a mariner, navigator, and your salvage and all of your knowledge of the facts connected with the "Celtic Chief," whether or not the operations of the "Arcona" assisted or retarded the salvage operations of the other salving agencies?

Mr. OLSON.—Object to the question on the ground that it [2495—1664] is calling for a conclusion of the witness where the details upon which that conclusion must be based are already in evidence and must be determined by the Court itself.

Mr. WARREN.—Captain, during the salvage operations on the "Celtic Chief" were there or were there not, at any time, any interference between the salvage, the salving vessels?

Mr. OLSON.—Object to the question on the ground it is leading, if the Court please.

The COURT.—The question is leading, surely.

Mr. OLSON.—The objection is then sustained, if the Court please?

The COURT.—The objection is sustained.

Q. Do you remember, Captain, about what was the condition of the tide on Wednesday, at about the time the "Arcona" broke her first wire?

(Testimony of J. R. Macaulay.)

A. About low water.

Q. When she broke her first wire?

A. About the time she broke her first wire.

Q. And then you think. About what time, then, do you think she got her two wires made fast after that? How many hours after?

Mr. OLSON.—I object to the question on the ground it is leading.

Mr. WARREN.—How many weeks, then, Captain?

The COURT.—That's just as leading. I'll sustain the objection.

Mr. WARREN.—I mean with reference to hours, your Honor.

The COURT.—Then with that part eliminated the question is allowed.

Q. How long after she broke her first line was it after the two lines were placed, how long a time elapsed between [2496—1665] those two circumstances?

A. The two lines were made fast the same afternoon.

Q. Before or after dark? A. Before dark.

Q. Do you know, Captain, what arrangement, if any, was made as to pulling by the salving vessels around about high tide? A. Yes, I do.

Q. What were they?

A. Orders were given for all vessels to pull hard at high tide.

Q. What was done? A. They pulled hard.

Q. How long? A. About two or three hours.

Q. And during that time where was the "Arcona"?



(Testimony of J. R. Macaulay.)

A. She was preparing to come out and assist the "Celtic Chief."

Q. At what stage of the time did the "Arcona" arrive on the scene on Wednesday?

A. As near as I can remember, she arrived at the scene a little before low water, ebb tide.

Recess.

Q. Do you remember what time was low water on Wednesday afternoon, Captain? A. I do not.

Q. Then, if the tide tables for December, 1909, show that Wednesday at twelve-thirty was high water small, and that half-past six, six thirty-seven on Wednesday evening, it was low water large, will that help you in fixing the time of day that the "Arcona" arrived on Wednesday?

A. If that tide table shows—

Mr. OLSON.—If the Court please, I object to the question on the ground that the matter has, in substance, been covered by the witness in previous testimony. [2497—1666]

Q. If the tide table, Captain, for the month of December, 1909, showing high water large at two o'clock early Thursday morning, that's two hours after midnight, low water large at six thirty-seven on Wednesday evening, and low water small at eight o'clock Wednesday morning, which of low tides do you have in mind in saying that the "Arcona" came out about low tide?

A. If I remember correctly, my answer to that question, I said that the "Arcona" came out previous to low tide on the ebb.

Q. Which low tide, now? A. Ebb tide.

(Testimony of J. R. Macaulay.)

Q. There is an ebb following high tide both morning and evening, isn't there.

A. That was in the afternoon.

Q. Afternoon?

A. Of Wednesday. That was ebb tide. The exact hour she came out I don't know, no.

Q. Do you know whether or not she came before or after twelve o'clock on Wednesday?

A. About that time.

Q. You couldn't say whether or not it would be before or after? A. I don't remember.

Q. Then if the tide table shows high water at twelve-thirty on Wednesday, shows high water small twelve-thirty on Wednesday, and she came on the ebb that would be after twelve-thirty, would it?

Mr. OLSON.—Now, if the Court please, I submit that has been fully gone into and it is leading, and, in the second place, it is improper direct testimony.

The COURT.—I'll sustain your objection, Mr. Olson.

Q. Can you tell us, Captain, as nearly as you can, how long it was after the "Arcona" got out until she broke her first line? [2498—1667]

Mr. OLSON.—If the Court please, I submit that the question has already been asked and answered and object to it on that ground.

The COURT.—I overrule the objection.

A. After the "Arcona" got into a position for the second time she ran a messenger and got that wire on board the ship; directly after making the wire fast they started to pull and broke the line.

Q. How long was that after the time she got out?

(Testimony of J. R. Macaulay.)

If, as you say, she got out about twelve o'clock, somewhere around there, on Wednesday, what time in the afternoon was it, as nearly as you can fix it, when she broke the first line?

A. I took no note of the time.

Q. I don't mean to state the time by the clock, but state about the amount of time that elapsed.

A. After the wire was passed and the "Arcona" was hauling with the line was fast, they started to pull and broke the line, it didn't take ten minutes from the time they started to pull until they broke the line.

Q. That isn't my question. I mean, taking about noon as you've said when the "Arcona" got out there and then she manoeuvred as you've told us, then dropped her anchor and then picked it up and laid it in another place finally and went on turning her propeller and broke it. What I'm after, about the length of time, from the time she got out there about noon covering these manoeuvres and up to the time the line broke.

A. I should judge the time would be in the neighborhood of about two hours or so after she came out that she broke the line. [2499—1668]

Q. Now, which of the vessels, Captain, furnished the first wire line that was run between the "Arcona" and the "Celtic Chief"?

A. The steam tug "Intrepid."

Q. No; between the "Arcona" and the "Celtic Chief."

Mr. OLSON.—I submit the question has been asked and answered, and I submit also it is irrelevant.

(Testimony of J. R. Macaulay.)

Mr. WARREN.—If counsel will admit that that wire belonged to the "Arcona" I'll quit.

Mr. OLSON.—Of course, I'll admit it.

Mr. WARREN.—I'd like to have that admission clear, that this line that broke was furnished to the "Arcona," belonged to the "Arcona."

Mr. OLSON.—It's in the record a half a dozen times.

Q. Referring again, Captain, to the conversations between the officers of the "Arcona" and the captain of the "Celtic Chief" at which you were present. Can you tell us whether there was any advice or suggestion offered by the officers of the "Arcona," other than those to which you have already testified?

Mr. OLSON.—I submit, if the Court please, the matter has been already fully answered.

The COURT.—Objection overruled.

Q. Can you recall anything else, if there was anything?

A. I cannot recall any other suggestions only those that I have mentioned beforehand.

Q. There may have been other advice?

A. There may have been.

Q. So that if there is any testimony in this case to the effect the captain of the "Arcona" advised lightening the ship, do you remember anything of that kind?

Mr. OLSON.—I object to the question on the ground [2500—1669] that it has been fully answered.

The COURT.—Objection sustained.

Q. I want to ask you, Captain, then, if there is any

(Testimony of J. R. Macaulay.)

testimony in this case to the effect that the captain of the "Arcona" advised putting out an anchor to keep the "Celtic Chief" in position, would you know anything of that.

Mr. OLSON.—Object to the question on the ground it has been fully covered by the witness' testimony.

Mr. WARREN.—I withdraw the last question. If there had been any advice given by the captain of the "Arcona" to the captain of the "Celtic Chief" either to lighten the ship or to put out an anchor astern, all to keep her in position, would you have been likely to know of that?

Mr. OLSON.—Object to the question on the ground that it is calling for a conclusion of the witness.

Q. In view of all the circumstances and conditions under *which and* Captain Henry worked.

Mr. OLSON.—Object to the question on the ground that it is calling for a conclusion of the witness. I include in my objection that the matter has been all fully covered by the testimony of the witness.

The COURT.—I think it's a conclusion and that objection is sound; also it has been covered.

Q. So far as you know, Captain, was there any advice given to the captain of the "Celtic Chief" by the captain or the executive officer of the "Arcona" that an anchor should be put out to hold the stern of the "Celtic Chief" in position? [2501—1670]

A. Yes, I believe there was.

Q. At what time *what* that?

A. Must have been Monday.



(Testimony of J. R. Macaulay.)

Q. Can you recall more particularly what that was?

A. The commander and executive officer of the "Arcona," as near as I can remember, came off in a gasoline launch from shore or with their own ship's boat, I forget which, but I believe it was in a small boat, and they conversed with the captain of the "Celtic Chief," and the executive officer of the "Arcona" was sent by the commander of the "Arcona" to sound in the vicinity of the "Celtic Chief" to find out the nature of the bottom and depth of water. They returned to the ship after making the survey of the locality and held quite a long conference. Of course, I didn't know what they were talking about. However, after they got through, the master of the "Celtic Chief" told me that the commander of the "Arcona" suggested getting an anchor.

Q. You didn't hear this yourself from the officers of the German ship? You heard this from Captain Henry?

A. From Captain Henry, master of the "Celtic Chief" told me.

Q. Well, then, that isn't admissible, I take it Captain.

Mr. OLSON.—I submit that the testimony should stay in the record.

Mr. WARREN.—I move to have it stricken and withdraw the question.

The COURT.—The hearsay statement is stricken.

Q. Now, Captain, what, in your opinion, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your

(Testimony of J. R. Macaulay.)

own [2502—1671] experience in salving vessels, in maritime matters, and in navigation, as well as your knowledge of the facts.

Mr. OLSON.—Object to the question on the ground it calls for the conclusion of the witness; further, on the ground that the witness is not qualified to answer; furthermore, on the ground that it is incompetent, irrelevant, and immaterial.

The COURT.—I will reserve my ruling.

Mr. WARREN.—I have no further questions, your Honor.

Cross-examination.

Mr. OLSON.—Do you know the horse-power of the “Mikahala”?

A. I do not.

Q. Do you know the pitch of its propeller blades?

A. I do not.

Q. Do you know the horse-power of the “Like-like”?

A. I do not.

Q. Do you know about its propeller?

A. No.

Q. Do you know the horse-power of the “Helene”?

A. No.

Q. Do you know the horse-power of the “Arcona”?

A. No.

Q. Do you know anything about any of the propellers of any one of those vessels?

A. No.

Q. Do you know the amount of horse-power that was exerted by means of the capstan that was utilized on board of the “Celtic Chief” on the ground tackles of the Miller Salvage Company, which was attached to its anchor?

A. I know approximately the breaking strain of

(Testimony of J. R. Macaulay.)

the Miller Salvage Company's ground tackle.

Q. Do you know the amount of power that was actually applied to that ground tackle by means of the capstan [2503—1672] and the purchase tackle which were run on the "Celtic Chief"?

A. I do, approximately.

Q. What was the amount in horse-power?

A. I can't figure that in horse-power.

Q. You don't know how many horse-power?

A. No.

Q. Do you know the weight of the "Celtic Chief"?

A. Approximately.

Q. What was its weight?

A. In the vicinity of a thousand tons, the hull, spars, and rigging and sails.

Q. Somewhere in the vicinity of a thousand tons?

A. Somewhere around there.

Q. Would it be as much more as five hundred tons more? A. It might be.

Q. You say you know approximately and yet it might be fifty per cent more? A. It might be.

Q. Might it be as much as seven hundred and fifty tons, pretty nearly twice the amount you have stated? A. No.

Q. It would not? A. No.

Q. What is meant by gross tonnage?

A. Gross tonnage is the full capacity of a ship.

Q. How did you, how do you ascertain that her weight was about a thousand tons.

A. Merely guess at it.

Q. How do you arrive at that conclusion. For what reason do you arrive at that conclusion?

(Testimony of J. R. Macaulay.)

A. By the weight of the material that the ship was built out of.

Q. What was it built out of? A. Iron.

Q. How many tons of iron do you think went into the [2504—1673] construction of her?

A. Close on to a thousand tons.

Q. Have you ever built an iron ship?

A. I have not.

Q. Have you had anything to do with the building of iron ships? A. I have.

Q. Where?

A. Bath, Maine. We have helped construct lots of ships. I served two years in the yards of ——.

Q. Did you ever purchase the material necessary for an iron ship? A. Never.

Q. Did you ever order the material for an iron ship? A. I have not.

Q. Did you ever see any of it ordered?

A. I have not.

Q. Did you ever measure, either by weight or otherwise, the quantity of material that is necessary for building that kind of ship?

A. I have measured the material.

Q. Have you ever weighed it?

A. I have never weighed it.

Q. How do you know it would be about a thousand tons of iron? A. It was.

Q. How do you know?

A. By just guessing at it, that is all.

Q. You didn't have any facts to go on?

A. No, not direct.

Q. Or indirect? A. Indirect; yes.

(Testimony of J. R. Macaulay.)

Q. What facts?

A. I know the weight of the spars approximately.

Q. And what is the weight of the spars of the "Celtic Chief"? [2505—1674]

A. The lower mast of the "Celtic Chief" and top mast, would average twelve thousand.

Q. Each? A. Each.

Q. You know those spars were wood?

A. They were.

Q. They were. What other?

A. Take the various kinds of masts and rigging.

Q. How much would they weigh?

A. The rigging?

Q. Yes, actually weigh?

A. Will you allow me to refer to tables?

Q. Do you know of your own knowledge?

A. Not without referring to tables.

Q. Have you referred to tables for the purpose of ascertaining what the weight of the "Celtic Chief" was? A. I have not.

Q. How much wood goes into the "Celtic Chief"?

A. Very little.

Q. The decks are built of wood?

A. The decks were.

Q. Do you know how much timber, by weight goes into the decks? A. I have an idea.

Q. Do you know? A. Not exactly.

Q. Do you know approximately? A. I do.

Q. How many tons? A. Not over twenty tons.

Q. Now, do you know how much other material besides wood,—you've already stated iron,—there is, in weight, in a ship like the "Celtic Chief"?



(Testimony of J. R. Macaulay.)

A. Their boats.

Q. How much do they weigh?

A. Each boat would weigh in the neighborhood of three tons.

Q. How many boats? A. Three boats.

Q. Now, what else is there? A. Sails.

Q. How much did they weigh? [2506—1675]

A. Oh, the sails would weigh about ten tons.

Q. Now, what else is there? A. Her lines.

Q. How much did they weigh?

A. Not over a ton.

Q. What else is there?

A. Nothing that I can think of. Provisions.

Q. Which? A. Provisions, stores, and water.

Q. What would they amount to?

A. Well, on the "Celtic Chief" the stores wouldn't be very much from what I saw of them.

Q. The balance would be iron, wouldn't it?

A. The balance would be water. She had some water.

Q. All right, how many tons of water?

A. That I can't say. I don't know.

Q. Do you know how much capacity she had for holding water? A. I have an idea.

Q. Do you know? A. Approximately so.

Q. Did you examine that tank? A. I did not.

Q. How do you know then?

A. Because she would have to have sufficient water to carry her over that distance for say six months.

Q. She might have more than that, mightn't she?

A. She might have more.

(Testimony of J. R. Macaulay.)

Q. You don't know how much more?

A. A vessel of that class would carry water to supply her for a year.

Q. But do you know how much the "Celtic Chief" had?     A. I do not.

Q. She might have more?     A. Yes.

Q. Do you know how much keel she had, in tons?

A. No, I do not.

Q. Have no idea?     A. Yes, I have an idea.

Q. From actual examination of her keel afterwards? [2507—1676]

A. No, no actual examination.

Q. You didn't see the amount of keel?

A. I didn't see it.

Q. The only reason you say you have an idea is from the kind of a ship she was?

A. Class of a vessel.

Mr. WARREN.—I should like, your Honor, to make my objection that this is immaterial.

Q. Do you know how much actual iron, in tons?

A. Not actually.

Q. Well, do you know approximately?

A. Yes, sir, I do. I think so.

Q. Now, then, how are you able to estimate that?

A. By the weight of iron.

Q. Do you know the thickness of her plates by examination of them?

A. I didn't examine her plates.

Q. So you don't know the actual kind of construction that the "Celtic Chief," that had gone into the "Celtic Chief"?     A. I know approximately.

Q. Did you examine her bottom?     A. I did not.

(Testimony of J. R. Macaulay.)

Q. So you don't know what her bottom was constructed of?

A. I could see the thickness of her plates.

Q. You did not examine her bottom?

A. I didn't.

Q. How do you know?

A. I could see the ship in the water.

Q. You don't know the thickness of the material that went into the construction of that ship, do you?

A. I don't. [2508—1677]

Q. Let me ask you to name a ship where you know the actual weight and dimensions?

A. I don't know of any.

Q. So you don't know the weight of any ship?

A. I do.

Q. How? A. Getting the figures.

Q. What figures?

A. Getting the builders' description, construction.

Q. Do you know where to get the builder's construction of the "Celtic Chief"? A. Yes.

Q. Where? A. In Scotland.

Q. And that is the only way you could ascertain the weight of it? A. That's the only way.

Mr. WARREN.—Did your Honor rule on the materiality of my objection?

The COURT.—I think this is proper cross-examination. I allow the question.

Q. Now, then, Captain, as you have not the record of the builders' construction of this vessel and you cannot, therefore, state what the weight of the vessel was, you are merely guessing then as to what its weight is?

(Testimony of J. R. Macaulay.)

A. I can give an approximate idea of the weight of the ship and the cargo.

Q. And yet you have never weighed the material that has gone into a similar ship? A. No.

Q. Now, then, do you know the number of tons of cargo that she had in her? A. I do.

Q. How many tons?

A. She had two thousand.

Q. Now, then, do you know the cubic contents of the materials that were in the "Celtic Chief"? [2509—1678] A. I do not.

Q. And you realize, don't you, that the lighter the material the greater the buoyancy of the material?

A. Yes, I do.

Q. Then the greater the quantity in cubic contents and the lighter the material, the greater the buoyancy of the substance; you know that?

A. I do.

Q. And you don't know what the cubic contents of the material that went into the "Celtic Chief" is?

A. Not exactly.

Q. Do you know the cubic contents of the cargo?

A. The cubic contents of the cargo was the gross tonnage of the ship.

Q. And what is the gross tonnage of the ship?

A. Over seventeen hundred tons.

Q. Over seventeen hundred. You know that?

A. I know that.

Q. How do you know that?

A. I know that by looking up the "Celtic Chief" in the record of the American Bureau of Shipping.

Q. In Lloyds? A. American Lloyds; yes.

(Testimony of J. R. Macaulay.)

Q. As a matter of fact, if her tonnage is 1606, how do you make that square with your statement?

A. I merely said that from memory.

Q. It might not have been seventeen hundred?

A. It was in that neighborhood.

Q. If it was fifteen hundred?

A. It was more than fifteen.

Q. If Lloyds shows it was 1496 what have you got to say about it?

A. If Lloyds says that it must be so.

Q. You wouldn't question that? [2510—1679]

A. I wouldn't question Lloyds' record; no.

Q. When did you make this examination of the record?

A. That day. That is whenever we take any ship in, on account of pilo tago.

Q. You did that in that case?

A. I did that ship; in that case.

Q. Do you know how deep her keel was in the coral reef there?

A. A vessel of the class of the "Celtic Chief" generally has a keel of about six inches.

Q. Do you know what the depth of this keel was?

A. I do not.

Q. You did not examine it? A. I never saw it.

Q. So it might have been more than that, or less?

A. It would be about six inches.

Q. How do you know?

A. Because vessels of that class generally have six-inch keel.

Q. Generally; not necessary?

A. Not necessary.



(Testimony of J. R. Macaulay.)

Q. So that the "Celtic Chief" might have been one of the vessels that was an exception?

A. I don't believe she was.

Mr. WARREN.—I object to the question.

Q. You say you believe she was. Give us again what the size of the keel generally is.

A. About six inches.

Q. She might have been an exception to the rule as far as you know? A. I do not believe she was.

Q. She might have been?

A. As far as I could see she was not.

Q. Did you examine her keel to see anything of her keel? A. I did not.

Q. So you don't know. She was, might have been an [2511—1680] exception to the rule?

A. She might have no keel at all, so far as I know.

Tuesday, September 26, 1911.

The WITNESS.—Your Honor, I appeal to this Honorable Court in my own behalf, regarding qualifications.

The COURT.—I don't think you need to do that. I'll say right here it's a question of law, not a question of fact. We're not disputing your qualifications so much. We are disputing for one thing whether I should have to decide this case or let you say what the decision should be.

Mr. WARREN.—I would like to have it on the record that I *request* your Honor at this time to recall any other witnesses with reference to this claim that this witness is deficient in knowledge.

Mr. OLSON.—Captain Macaulay? A. Yes, sir.

Q. Will you describe just how luff tackles were at-

(Testimony of J. R. Macaulay.)

tached to the main purchase tackle of the Miller Salvage Co.?

A. The first luff was attached to the main purchase. The second luff was attached to the first luff.

Q. And there was a fall there and running from the first purchase tackle to the second purchase tackle.

A. First luff was attached to the fall of the main purchase.

Q. The fall is the end of the line, isn't it, that comes from the coming through the last chock. Isn't that correct? A. Yes, that's correct.

Q. Now, that line, then, was what size, the fall from the purchase tackle to the first luff tackle?

A. Seven-inch. [2512—1681]

Q. Seven-inch manilla hawser?

A. Seven-inch manilla hawser, brand new.

Q. Now, is the same true of the second luff tackle, it being attached to the fall of the first luff tackle?

A. The same.

Q. And what was the size of that tackle, the fall running to that tackle? A. About six-inch.

Q. Where did the fall from the third luff tackle go?

A. The last luff went sometimes to the capstan and sometimes to the steam drum on the ship's donkey.

Q. And the main block or, rather, the first block of the main tackle, that is, the main first purchase tackle, now, how was that operated with reference to the ground tackle?

(Testimony of J. R. Macaulay.)

A. There was a strop wound around the ground tackle and the main block was attached to this strop.

Q. Well, now, at that point where the ground tackle had this strop wrapped around it for the purpose of being attached to the main purchase block, what did the main tackle consist of?

A. Seven-ton anchor and, as near as I could see, a four-inch wire.

Q. No, I'm saying at the point where the strop was wrapped around the main tackle?

A. A six-inch manilla hawser and two parts of a steel wire.

Q. Those were the steel wires that were obtained from the "Celtic Chief," were they not?

A. The same.

Q. Well, do I understand you, Captain, that those steel wires ran over, then, the first block of the [2513—1682] main tackle out to the main wire line which went to the anchor?

A. Yes, through the shackle.

Q. Then these wire lines went the whole distance and reinforced this manilla hawser; that is, the whole distance of the manilla hawser. Is that correct? A. Exactly.

Q. You understand, do you, Captain, that if you have a line made up of several parts or a chain made up of several lines, that the tensile strength of that line or chain is necessarily reduced to the weakest part of the line or chain? A. That's correct.

Q. That is to say, even though the Miller anchor was attached it was not attached to the "Celtic Chief" by means of this wire line, but from the end

(Testimony of J. R. Macaulay.)

of that wire line to the main purchase tackle there was another line bent or several different lines attached, the tensile strength of which would necessarily be smaller than the main line, that would determine, would it not, the strength of the entire line?

A. The tensile strength of the line is at the weakest spot.

Q. So that if the manilla hawser, the two wires were not as strong as the other wire, it would be them that would determine the tensile strength of the entire line, isn't that correct?

A. Or *vice versa*.

Q. Or *vice versa*? A. As the case might be.

Q. Now, then, Captain, you are sure, are you, that those wire lines extended the whole length of the manilla hawser?

A. No, not the whole length of the manilla hawser. It extended from the shackle to the first purchase. [2514—1683]

Q. Was there any part of that line which was made up of the eight-inch manilla hawser not reinforced?

A. Not that I know of.

Q. The wire extended the whole distance of the hawser to the purchase tackle?

A. To the first block.

Q. Was that strop ever changed as far as you know? A. Oh, yes, lots of times.

Q. Well, at the time that the manilla hawser was first attached were those reinforcing wire lines also put on at the same time?

A. No, it was not necessary at that time.

Q. Well, when were they put on?

(Testimony of J. R. Macaulay.)

A. When a small strain came on the hawser.

Q. Now, then, Captain, that anchor was laid directly astern of the "Celtic Chief," for all practical purposes; that is so, is it not?

A. About directly astern.

Q. And was the wire line yet attached when that anchor was laid to the "Celtic Chief" purchase? Was the wire line then running to the anchor?

A. No, it was afterwards.

Q. Would you say it was a short time?

A. The large wire was put there—

Q. How did they bring the large wire up to the "Celtic Chief"?

A. They bent on a messenger on to that wire and hove it taut and found it was too short.

Q. Did they use a boat in pulling?

A. Yes, they used the "James Makee."

Q. They brought the big line over by a boat?

A. They used the "James Makee."

Q. How near did they come to the "Celtic Chief" with the [2515—1684] end of that big wire line?

A. Oh, they got—

Q. With the boat, I mean.

A. With the "James Makee"?

Q. Yes.

A. They got within fifty or sixty feet, I believe, of the stern of the "Celtic Chief."

Q. Fifty or sixty feet?

A. Somewhere around there.

Q. Would it be more than that?

A. Somewhere about that.

Q. Would it be more?



(Testimony of J. R. Macaulay.)

A. I don't think it would be more.

Q. Might be a little less?

A. That's about the distance.

Q. When they got the messenger line on the "Celtic Chief" and took it out of the hands of the "Makee," how near was that when they got a strain upon that wire with the messenger?

A. When they got a strain upon that wire with the messenger it was then within, about, I should judge, about fifty feet of the "Celtic Chief."

Q. Now, didn't you say on direct it came within thirty or forty feet?

A. It kept coming. They pulled until it did come finally within forty feet.

Q. What distance was it from the "Celtic Chief" when they attached the eight-inch manilla hawser?

A. About fifty feet.

Q. That is, when the messenger line was replaced by the manilla hawser it was about fifty feet from the "Celtic Chief," the end of the wire line?

A. When they bent on the eight-inch manilla hawser to the shackle of the big wire at that time, the shackle was about fifty feet from the stern of the ship.

Q. Do you remember testifying concerning the "Dunreggan"? [2516—1685] A. I do.

Q. The "Dunreggan" was ashore at Diamond Head? A. Diamond Head.

Q. How far on the reef had the "Dunreggan" gone? A. I don't know.

Q. You went out there, did you not, and remained there?

(Testimony of J. R. Macaulay.)

A. I went out as master of the tug "Elehu" and offered our assistance to the ship.

Q. But you did not observe whether or not she was merely bow on, or on amidships, or on her own length?

A. I observed that she was stern on when I got there, heading bow out.

Q. She had her stern on? A. She was stern on.

Q. So that her position was just exactly the reverse to the "Celtic Chief's" position?

A. Exactly so.

Q. Do you know how much of her stern was on the reef? A. I do not.

Q. It might have been just a few feet, so far as you know or she might have been a good distance?

A. I have no knowledge of her condition on the reef only that she was fast.

Q. Now, then, Captain, do you know whether or not the "Choyse Maru" was on a short distance or a long part of her distance?

A. She was on her whole length.

Q. She was a small boat? A. Small.

Q. She was using her own propeller, was she not?

A. She was.

Q. Did she have any anchors out?

A. Small kedge anchor.

Q. Her own? A. Her own kedge anchor.

Q. Was she heaving in by means of her donkey?  
[2517—1686]

A. She was heaving in by means of her steam winch.

Q. Which was operated by means of her donkey-

(Testimony of J. R. Macaulay.)

engine? A. From a steam boiler.

Q. Now, what other agencies were there at work on the "Choyse Maru"?

A. Inter-Island steamers, and the revenue cutter "Manning," I believe, assisted.

Q. Now, then, the proportion of work, of strain actually exercised on the "Choyse Maru" by the anchor which you say she had laid, and operated by means of the steam winch of the "Choyse Maru," as compared to the services rendered by the Inter-Island, is that something you know anything about?

A. I know all about that.

Q. Do you know the amount of horse-power or the pounds pressure exerted on that winch?

A. The steam winch was on the main deck and on each end was a drum; the wire from that kedge anchor was taken upon the drum, three or four turns, and when we were all ready to heave, we hove on that kedge anchor and hove it home, the kedge anchor would come home.

Q. Oh, it did not hold? A. It didn't hold.

Q. Did it hold at any time?

A. Never held at all until we came off.

Q. So it was not a factor in bringing you off?

A. It was a detriment; more so than anything else.

Q. Was it high tide or low tide when the "Choyse Maru" came off?

A. I really forget the state of the tide.

Q. You don't know. Was any part of the "Choyse Maru" afloat as she lay there aground?

A. I don't think so.

Q. Did you examine her yourself?

(Testimony of J. R. Macaulay.)

A. Yes, sounded all around the ship. [2518—1687]

Q. And you found that her stern was aground as well as her bow? A. Yes, she was aground all over.

Q. Did you take sounding at the time she came off, just before she came off?

A. Not at the time she came off.

Q. You don't know if she was afloat astern just before she came off? A. I do not.

Q. Isn't it true that there might have been high water astern? A. There might have been some.

Q. How do you know she wasn't afloat? Did you take soundings at or before the time she came off?

A. Yes, we took sounding before.

Q. How long before?

A. Continuously taking sounding during the forenoon.

Q. And she came off when?

A. In the afternoon.

Q. So you don't know, as a matter of fact?

A. I do.

Q. How do you know if you don't know that it was high tide?

A. I know the time of day and I know the height of the tide.

Q. What was the height of the tide?

A. Average eighteen inches.

Q. Do you know that's the height of the tide?

A. I know that is the average height; it might have been a little more or less.

Q. Do you know whether it was high or low tide

(Testimony of J. R. Macaulay.)

at the time she came off? A. I don't know.

Q. Do you know what the tide was at the time you took the soundings?

A. I didn't allow for the height of the tide. [2519—1688]

Q. So there might have been eighteen inches difference between the tide when you took the soundings and the tide when she came off?

A. She certainly didn't come off at low water.

Q. There might have been eighteen inches difference between the depth of the water when you took the soundings and when she came off?

A. There might have been.

Q. And you mean to say that notwithstanding that fact, notwithstanding that possibility still she was aground astern when she came off?

A. She was aground all over.

Q. You think that the towing steamers were able to pull her off by means of their propellers?

A. There was other things besides the steamers' propeller. There was her own propellers; then when all the ships were ready to pull that ship astern I asked the captain to inform the engineer of the "Choyse Maru" to get all the pressure he possibly could on his boilers and be ready for our signal and the signal was to be given by three blasts of her steam whistle. The signal was given and all the steamers there pulled for all they were worth and the ship came off.

Q. How soon afterwards?

A. Directly afterwards.

Q. And you still think she was fast aground at the



(Testimony of J. R. Macaulay.)

time they tried to pull her off?      A. I do.

Q. Do you know how much horse-power the Inter-Island steamers were able to exert on the "Choyse Maru"?      A. I have no idea.

Q. What steamers were at work?

A. I forget exactly. I remember the "Mikahala" being there.

Q. Any other?

A. I believe the "Mauna Kea" [2520—1689] was there.

Q. Any other? You are sure the "Mauna Kea" was there?      A. I'm not sure.

Q. Isn't it the fact that the "Mauna Kea" was not built at the time?

A. Well, it must have been the "Kinau"; it's one of the steamers.

Q. Was there more than one Inter-Island steamer there?      A. I don't know.

Q. Now, then, do you know the horse-power of the "Manning"?

A. I do not. I know she's a powerful boat.

Q. Approximately?      A. I have no idea.

Q. About two thousand?

A. I wouldn't dare say.

Q. Do you know, Captain, how much weight a steamer having two thousand five hundred horse-power pulling by means of her propeller is able to pull off a wharf if that dead weight is lying flat on a wharf? Take an iron block, put it flat on a wharf, put your towing steamer in deep water just clear of that wharf, with a hawser attached to that block in the best way that you could devise, how heavy a

(Testimony of J. R. Macaulay.)

block could that steamer pull off of that wharf—how many tons?

A. I don't see any similarity in the case at all.

Q. I don't care whether you see any similarity; do you know? A. I don't know what size block.

Q. Have you any idea? A. No.

Q. Notwithstanding the fact that you are a practical navigator and learned in the lore of maritime affairs?

A. Oh, I don't pose as a living encyclopaedia at all.

Q. Could it pull off a hundred-ton block, do you think? A. It might and might not.

Q. Do you think so?

A. I don't think so. [2521—1690]

Q. Could it pull off a fifty-ton block?

A. It might.

Q. Do you think so? A. I do.

Q. If, as a matter of fact, Captain, it is true that a steamer with that amount of power could not pull off a five-ton block, what have you got to say about it?

A. I would say that would be easy money.

Q. You think that it could do that easy?

A. I do.

Q. You don't think it could drag a hundred-ton block?

A. I don't think it could drag a hundred-ton block. It might, but I doubt it.

Q. Didn't you say before that it could not?

A. I think so still.

Q. Now, then, how heavy do you think the "Choyse Maru" was at the time she was ashore?

(Testimony of J. R. Macaulay.)

A. No living man can tell the weight of a ship in the state of detrition.

Q. What do you mean by that?

A. Wearing away, rusting.

Q. Deterioration?

A. No, deterioration is another term.

Q. Now, then, approximately what?

A. I couldn't say.

Q. You said what the weight of the "Celtic Chief" was, didn't you?     A. Approximately.

Q. Now, approximate.

A. No living man can give you the weight of a vessel after she leaves the builders' hands. It's a fact that an iron vessel will decrease in weight and it's a fact that a wooden vessel will increase.

Q. You, yesterday, swore what the weight approximately of the "Celtic Chief" was?

A. I said about a thousand [2522—1691] tons.

Q. Now, let's have an approximation of the weight of the "Choyse Maru."

A. I have no idea of the weight of her boilers and machinery.

Q. Do you think she was heavier than the "Celtic Chief"?

A. No, I don't think the hull of the vessel was.

Q. She's a steel ship, is she not?

A. I don't think so.

Q. What is she?     A. I think she's iron.

Q. Is she larger or smaller than the "Celtic Chief"?     A. About the same tonnage.

Q. There wouldn't be very much difference between the two?

(Testimony of J. R. Macaulay.)

A. There'd be a whole lot of difference.

Q. How much difference?

A. Well, she had no rigging; that amounted to fifty or a hundred tons at the utmost. She'd be that much less.

Q. You think that her weight would be somewhere in the neighborhood of nine hundred tons?

A. Somewhere about that, more or less.

Q. And you think that a nine-hundred ton object, fast from stem to stern as the "Choyse Maru" was, could have been pulled off by two or three Inter-Island steamers, assisted by the United States revenue cutter "Manning," by their propellers, even though it was fast?

Mr. WARREN.—I object on the ground that—

A. The fact remains that she was pulled off.

The COURT.—Objection overruled. Answer the question, Captain.

Q. Do you think that these two or three Inter-Island steamers, such as you've mentioned, like the "Mikahala," and the "Kinau" and the United States revenue cutter "Manning," [2523—1692] could pull an object as heavy as the "Choyse Maru," that was fast aground from stem to stern, notwithstanding the fact that her weight was about nine hundred tons or more?

A. Those steamers that were pulling on the "Choyse Maru" were helped by the buoyancy of the water in that vicinity, which helped float the "Choyse Maru" and was sufficient to pull her off at that time. The fact remains they did.

Q. Don't you think, Captain, that it was quite pos-

(Testimony of J. R. Macaulay.)

sible that there was a sufficient amount of water under her stern to have raised her stern from the reef at the time that that pull actually was made?

A. No.

Q. And you don't think there was sufficient buoyancy? A. No, there wasn't.

Q. Although you don't—

A. There wasn't. The fact remains that there wasn't because we used the engines continuously and we had a kedge anchor.

Q. What was the depth of her water astern?

A. I really forget now, it's so long ago.

Q. What is her draught astern?

A. I remember distinctly at her bow that one of my boys put an oar down and the upper end of the oar was out of the water.

Q. How much less was the depth of the water than her draught? A. At least two feet.

Q. At least two feet? A. Two feet.

Q. So that a steamer of that sort, two feet out of the water—

A. She wasn't two feet out of the water.

Q. Well, if it was out of her draught that would be two feet out of the water? [2524—1693]

A. She was two feet in the sand.

Q. She was down two feet in the sand, was she?

A. In the sand.

Q. I understood you to say, Captain, that you studied navigation at the public schools?

A. I did.

Q. Where?

A. Where I was born and raised and went to



(Testimony of J. R. Macaulay.)

school as a boy; I studied navigation.

Q. We want to know where that place is?

A. Scotland.

Q. At what age did you begin to study navigation?

A. About fourteen.

Q. How long did you continue in the public schools to study navigation?     A. Two years.

Q. Now, what did you study?

A. Logarithms to some extent; addition, subtraction, and multiplication of logarithms.

Q. Anything else?     A. Working the time.

Q. What else?

A. Getting your latitude and longitude.

Q. Anything else?

A. That's about as far as I went.

Q. Did you ever study trigonometry?     A. No.

Q. How do you use logarithms if you don't use trigonometry?

A. I use logarithms for a certain purpose in navigation.

Q. What is that purpose?

A. Finding coast signs.

Q. But you don't use trigonometry?

A. No, I don't know anything about those terms. It's foreign to me.

Q. When you went out on Sunday night and hailed the [2525—1694] "Celtic Chief" the first time do you know whether or not they heard you?

A. I don't know whether they did or did not, but they never answered me.

Q. Later they did?     A. Beg your pardon?

Q. Later they did hear you, did they not?

(Testimony of J. R. Macaulay.)

A. I don't know whether they did or not. I saw two men looking over the rail; sailors.

Q. You talked to them?

A. I said, told them to get a ladder over the side.

Q. And they got a ladder?

A. They got a ladder but not that time.

Q. It's quite possible that they didn't know you were there.

A. I hollered loud enough.

Q. You don't know whether they did hear you?

A. I can't say whether they did or not.

Q. When you got aboard what did you do?

A. I went straight up on the poop to the captain.

Q. What did you do there?

A. I told him he was too close in shore.

Q. What were you going there for?

A. To offer my assistance.

Q. Did you offer your assistance?

A. Not at that time.

Q. Why didn't you?

A. I hesitated for a moment.

Q. When did you first notify him that you were a pilot? A. Right afterwards.

Q. Did he accept your assistance? A. He did.

Q. Then did you take charge of the ship?

A. I did not.

Q. Why didn't you take charge yourself? [2526—1695] A. No pilot takes charge of a ship.

Q. What is your business as pilot?

A. Adviser to the captain.

Q. And that's all? A. And that's all.

Q. Is that your duty as a pilot in the harbor of Honolulu?

(Testimony of J. R. Macaulay.)

A. A master of a ship is master in charge of his own ship. It is for him to accept the pilot's services or not as he desires. He employs a pilot for his local knowledge. He never lets you run the ship.

Q. Do you mean to say when you take a ship into the harbor of Honolulu as pilot, that the master can dispute your words? A. Sure, he can.

Q. And that you haven't charge of the vessel?

A. Never, under no conditions; no pilot has.

Q. When Captain Henry went down to take his nap Sunday night, the port anchor, as I understand, was laid there; out and laid, was it not?

A. Starboard anchor.

Q. And that's a five-ton anchor?

A. About five-ton anchor.

Q. Attached to the ship by means of a chain.

A. By means of a chain-cable.

Q. That was a bow anchor?

A. Starboard bow anchor.

Q. Which way was she headed at that time?

A. She was headed about northeast.

Q. Her bow between the reef?

A. Angling towards the reef.

Q. That was good holding ground for an anchor?

A. It was.

Q. Did that anchor hold at all? [2527—1696]

A. For some time it did.

Q. Until you, as a matter of fact, hove it up for the purpose of taking advantage of the wind?

A. You got our very idea.

Q. Up to that time it had held? A. It had held.

Q. Where did you have that anchor laid with ref-

(Testimony of J. R. Macaulay.)

erence to ship itself? Where was that starboard anchor? A. It was ahead of the ship.

Q. Ahead of the ship? A. Ahead of the ship.

Q. How did you manage to lay it ahead of the ship—when the bow was toward the reef?

A. Well, it certainly wasn't stern of the ship. I didn't lay the anchor.

Q. The anchor was dropped, was it, before she finally touched bottom? A. No.

Q. About the time that she touched bottom?

A. Just at the time. How fast she went in on the reef before the anchor was let go I don't know.

Q. That would have prevented her bow from going farther on the reef, that anchor?

A. No, it wouldn't. She could still swing further in on the reef although that anchor was down.

Q. You could heave in that chain by means of her engine? A. 'Oh, yes, we did heave it in.

Q. You realized that the "Celtic Chief" was in a very dangerous situation, did you? A. I did.

Q. And that it was highly important to get her out of that position? A. I did.

Q. Was there a heavy sea or wind that night?

A. There was. The best part of the night it was blowing a strong tempest from the northeast.  
[2528—1697]

Q. That's away from shore?

A. Near the shore. It wasn't blowing in towards the shore.

Q. Didn't you say there was a dead calm?

A. Yes, the burst died out.

Q. From the time of this dead calm, was there

(Testimony of J. R. Macaulay.)

heavy sea running there?

A. There was heavy sea running there.

Q. Well, it would have been possible to get a ship's boat out would it not? A. Oh, yes.

Q. And all that you did was to shoot up these signal lights?

A. All that we did was to shoot up these signal lights. We did more than that.

Q. What did you do?

A. When she'd keel the bottom we'd heave a little on this anchor.

Q. Did it occur to you, Captain, to send anybody ashore? A. It did.

Q. Did you do so? A. No.

Q. Why not?

A. Because the master was in charge of his ship. I was not for me to speak about that and it was approaching daylight.

Q. It was about two o'clock when she first got on the reef? A. It was after two o'clock.

Q. Didn't you say it was two o'clock?

A. It was about two o'clock when we commenced to set sail.

Q. Wasn't it about a quarter of an hour after she first touched?

A. She first touched about nine o'clock. [2529—1698]

Q. Nine o'clock in the morning?

A. In the evening.

Q. She first touched the reef?

A. Once in a while.

Q. From nine o'clock Sunday evening until morn-



(Testimony of J. R. Macaulay.)

ing you waited for assistance?

A. We assisted ourselves.

Q. You realized she was in a dangerous position all this time? A. I did.

Q. Now, if you were on board that ship, interested in what was going on and your services had been accepted by the captain, tell me why you didn't put ashore to get assistance.

A. I had no boat to go ashore.

Q. Couldn't you have got one from the captain?

A. I could. I suppose, if I asked him.

Q. You didn't ask for one? A. I didn't.

Q. In other words, you didn't leave the ship to go ashore?

A. It was not my place to leave the ship to go ashore.

Q. Wasn't it your place to do everything you could for her? A. I did so.

Q. You could have gone ashore and got assistance?

A. I could, but it wasn't my duty.

Q. It was your duty to do everything in your power for the ship?

A. I did everything in my power.

Q. Except to go ashore?

A. That wasn't assisting the ship any.

Q. Wouldn't it have assisted to have got boats from shore?

A. I told you the master of the ship had control.  
[2530—1699]

Q. But you waited from nine o'clock in the evening until daylight next morning, a matter of eight or ten hours, waiting for towing vessels?

(Testimony of J. R. Macaulay.)

A. I wasn't waiting for them; we were very busy.

Q. Didn't you want assistance? A. Sure!

Q. And you could have gotten it if you had rowed ashore? A. I don't know.

Q. Don't you think so?

A. I don't know of any if I had come in.

Q. Wasn't the "Intrepid" in the harbor?

A. No steam up.

Q. Couldn't the "Huki" have towed her out of that position? A. She could not.

Q. You didn't go ashore to see if the "Intrepid" could be had?

A. I didn't desert the ship at all from the time I went aboard of her until she was floated.

Q. Do you know how long it takes the "Intrepid" to get up steam? A. No, I do not.

Q. Have you any idea? A. Yes.

Q. How much? A. Four or five hours.

Q. You think that every morning the "Intrepid" has got to start in four or five hours before she starts to move, getting up steam? A. I do.

Q. And you think that she didn't have up enough steam at nine or ten o'clock on Sunday evening?

A. I don't think she had.

Q. She might have had as far as you know.

A. When the engineer leaves the "Intrepid" they don't leave a great pressure of steam on her boiler.

Q. Do you know whether the engineer had left the "Intrepid"? [2531—1700] A. I don't know.

Q. So the "Intrepid" might have been easily available if you had gone ashore after her?

A. It wasn't my place to go ashore after her.

(Testimony of J. R. Macaulay.)

Q. Although it was your duty to do everything in your power for the stranded vessel?

A. I did do everything in my power.

Q. Except to go ashore to get assistance?

A. I had no business to go ashore at all. My business was aboard the ship.

Q. What kind of an anchor is the port anchor of the "Celtic Chief"?

A. About similar to the starboard anchor.

Q. Five-ton anchor?

A. Somewhere around there.

Q. Which anchor was it that you ordered let go after the "Celtic Chief" went aground?

A. Starboard anchor.

Q. Was that let go?

A. It was not at the time it was ordered.

Q. Was the port anchor ordered let go?

A. Not at that time.

Q. It would have been quite possible, would it not, to have stopped the course of the "Celtic Chief" by means of the port anchor?

A. No, it would have been dangerous to let go the port anchor. It would have taken the "Celtic Chief" quicker on the reef.

Q. How long was it before the "Celtic Chief" actually went ashore that you ordered the anchor let go?

A. I ordered the starboard anchor dropped in nine fathoms of water.

Q. How far distant from the place you actually dropped the anchor?

A. Quarter of a mile. [2532—1701]

(Testimony of J. R. Macaulay.)

Q. How long did it take her to sail that distance?

A. A very short time.

Q. All right; how long a time?

A. About ten or fifteen minutes.

Q. Now, why didn't you order the port anchor dropped then?

A. Because I ordered the starboard anchor dropped.

Q. Although you knew you were approaching the reef, you didn't want to change your order?

A. When I went aboard the ship I asked the captain of the ship, "Are your anchors clear?" He said they were both clear and ready for letting go.

Recess.

Q. Isn't it true, Captain Macaulay, that after midnight sometime, after midnight, a light breeze sprung up from the shore which you tried to take advantage of by getting the "Celtic Chief" off the reef?

A. Yes.

Q. How long after midnight was that?

A. Somewhere about two o'clock in the morning.

Q. Was that a heavy breeze or a light breeze?

A. Light breeze.

Q. Light breeze?      A. Light land breeze.

Q. And that breeze was strong enough to put the "Celtic Chief" or to enable the "Celtic Chief" to travel some distance, was it not, backwards, and was turned back by the current?      A. That's so.

Q. Do you mean to say that the Young Brothers' launch wouldn't have been able to tow the "Celtic [2533—1702] Chief" out of that position?

A. I don't know.

(Testimony of J. R. Macaulay.)

Q. You said so, didn't you? Didn't you say that the Young Brothers launch, "Huki Huki," would not be able to move the "Celtic Chief" even if you had gone ashore and got her?

A. I don't understand your question.

Q. You don't understand what I mean when I ask if it wouldn't have been possible for the Young Brothers' "Huki Huki" to have pulled the "Celtic Chief" out of her position of danger, if all that was necessary to move the "Celtic Chief" was this light breeze?

A. I don't believe it would have been possible for the "Huki Huki" to have pulled that ship at any part of the time that she was on the reef or close to the reef from that dangerous position.

Q. If the "Celtic Chief" were afloat in deep water, would the "Huki Huki" be able to pull her?

A. It wouldn't be able to.

Q. Could she have towed her?

A. I don't believe she could.

Q. Even though a light breeze from the shore was able to move the "Celtic Chief" you don't think the "Huki Huki" could have done so?

A. I don't think she could have moved it.

Q. Couldn't move her at all?

A. She couldn't have moved her at all.

Q. Isn't it so that after a ship gets under way she moves very easily?

A. This ship was under way and she moved easily.

Q. Now, Captain Macaulay, the Young Brothers' launch, "Huki Huki," couldn't she, with the aid of that wind, have brought her away from the reef?



(Testimony of J. R. Macaulay.)

A. I don't know.

Q. Don't you think she could have?

A. I don't think anything about it.

Q. Have you no idea at all? A. No, I haven't.

Q. You know that the "Huki Huki" could have done something, could have aided some?

A. The "Huki Huki" did aid some.

Q. And she could have done some good if you had brought her out that night and if she had been there?

A. She wasn't there.

Q. If she had been there, couldn't she, together with the aid of that wind, have got her away from the reef? A. Possibly so.

Q. And yet you didn't attempt to go ashore, did you—didn't even ask for a boat to go ashore so as to get the little aid that the "Huki Huki" might have afforded?

A. Mr. Olson, I was not there as a messenger boy for the "Celtic Chief." I was there, employed there as an adviser to the master.

Q. In other words, you thought it was below your dignity to go ashore and get that aid?

A. I did not take my dignity into consideration whatsoever. I stayed there and did all I possibly could to assist the master of the ship in his trouble.

Q. And you didn't advise—

A. I did advise; lots of advice; I was giving advice all the time. My advice wasn't obeyed in the first instance.

Q. I'm talking about after she was out there alongside this reef.

A. That's what I'm talking about too. Please al-

(Testimony of J. R. Macaulay.)

low me to answer your question. [2535—1704]

Q. I'm not asking you about advice.

A. You did ask me the question and I'm answering the question.

Q. Didn't you state before—

A. I wish to continue my answer.

Q. You said before noon—

Mr. WARREN.—I object to this.

The COURT.—Captain Macaulay, when Mr. Olson asks a question he's entitled to have an answer along that line without going out, unless you can't answer it without some further explanation.

The WITNESS.—I've answered Mr. Olson's question.

Q. Now, then, Captain Macaulay, go on and finish your answer, confining yourself to advice that you may have given with reference to going ashore, if you've got any such answer to give.

Did you advise the captain of the "Celtic Chief" to send a boat ashore?

Did you, as a matter of fact, advise the captain of the "Celtic Chief" to send a boat from his ship ashore to get assistance?

A. There was quite a lot of long conversation in regard to the first aid to assist the ship in her perilous position.

Q. Answer my question.

A. Boats were talked of, tugboats were talked of and other ways of communicating with the shore was talked of.

Q. Now, then, answer my question.

A. What is your question?

(Testimony of J. R. Macaulay.)

Q. Did you advise the captain of the "Celtic Chief" to send one of his boats ashore for assistance? A. I don't remember. [2536—1705]

Q. You don't know that you did?

A. I don't know that I did, but I can remember distinctly that we took boats and everything that possibly could aid us into consideration and we talked about it; especially the tug "Intrepid." It was then getting along towards daylight, along towards daylight then, when the sails were furled, the captain came on deck and we talked about boats and we talked about launches and we talked about the tug "Intrepid" and we talked about the Inter-Island steamers.

Q. And that's about all you could do?

A. We did lots of things; we weren't *ideal* at all aboard the "Celtic Chief" for one moment.

We talked about getting anchors out. We started right in to get the kedge anchor out; we got a line out; we carried that kedge anchor back to the stern rigging. We couldn't have got that kedge anchor without her own power.

Q. She was in a dangerous position at nine o'clock?

A. She was in danger at nine o'clock; she was in danger after she came around Diamond Head.

Q. Isn't it a fact that she was in danger at nine o'clock?

Mr. WARREN.—Object to the question; it has been asked and answered.

Q. At ten minutes after nine was she in danger?

A. She was.

(Testimony of J. R. Macaulay.)

Q. And where was she when she was in danger at that time?     A. On the reef.

Q. And she was in danger from that time on?

A. She was in danger though she came off the [2537—1706] reef.

Q. And you realized that, didn't you?

A. I did.

Q. From the time that she went on the reef, about nine o'clock, you realized she was in serious danger, didn't you?     A. I did.

Q. And yet you didn't send ashore for aid?

A. I wasn't going as messenger boy for the "Celtic Chief" at all on that occasion.

Q. It was below your dignity to act as messenger boy?

A. My dignity wasn't taken into consideration in the matter at all.

Q. And you can't now remember whether or not you even proposed to the captain to send a boat ashore for assistance?

A. There was lots of things we didn't do, and there was lots of things we did do.

Q. Can't you answer my question?

A. That's answering your question.

Q. It is not answering my question and I ask that the witness be instructed to answer my question.

A. I can't remember whether I proposed the captain to send his own boats ashore or not at that particular time.

Q. From nine o'clock until two o'clock is about five hours, isn't it?     A. About five hours.

Q. If you had sent ashore for the "Intrepid"

(Testimony of J. R. Macaulay.)

about nine o'clock or shortly after, when you saw the "Celtic Chief" was in greatest danger, she would have had time to get up steam and get out there and get the "Celtic Chief" off the reef?

A. The "Celtic Chief" wasn't on the reef until two o'clock. [2538—1707]

Q. Wasn't she on the reef at nine o'clock?

A. She was on the reef at nine o'clock.

Q. If you had sent ashore for the "Intrepid" she would have had time to get up steam and get her out of danger, out of the danger that she was in at two o'clock?

A. We burnt blue lights at that time, signals of distress and I took it for granted they would come out to us.

Q. You took that for granted for at least five hours and no assistance came?

A. And no assistance came.

Q. And you didn't send ashore for assistance?

A. I had nothing to do with sending ashore for assistance. If I had a pilot boat there I probably would have sent her ashore.

Q. Wouldn't you have remembered if the captain of the "Celtic Chief" had refused to allow one of his boats to go ashore for assistance?

A. What's that?

Q. Wouldn't you now remember if the "Celtic Chief's" captain had refused to send one of his boats ashore for assistance?

A. No. There's lots of things that occurred I don't remember.

Q. And you wouldn't remember that?



(Testimony of J. R. Macaulay.)

A. There's lots of things that occurred I don't remember.

Q. You wouldn't remember that?

A. I can't remember it at this present time.

Q. Now, then, as far as you remember, Captain, you did advise the captain of the "Celtic Chief" to send one of his boats ashore for assistance?

A. It may be so and it may not be so.

Q. As far as you remember that's true, isn't it?

A. Well— [2539—1708]

Q. Isn't that so?

A. I had advised the master of the "Celtic Chief" on former occasions; my advice was not carried out and about two o'clock in the morning, as you say, I may have advised him further. I kept advising him until the ship was floated.

Q. You haven't answered my question yet. As far as you remember you advised the captain of the "Celtic Chief" to send a boat ashore for assistance?

A. I may have advised him to send a boat ashore and I may not. It's beyond my memory.

Q. Now, you assumed control and command of the "Celtic Chief" when the captain of the "Celtic Chief" went down to sleep?

A. He told me that he was going down below to rest and I told the captain of the "Celtic Chief" to go below and rest if he wished and that I would look out for the ship.

Q. Why didn't you send one of the boats ashore then, for assistance?

A. Because I thought it wasn't necessary.

Q. And the result was that the "Celtic Chief" got

(Testimony of J. R. Macaulay.)

on the reef in such a condition that it took from Monday until midnight of Wednesday to get her off and requiring the assistance of four or five Inter-Island boats, the "Intrepid," the Miller Salvage anchor and the German cruiser, "Arcona." That's so? A. That is not so.

Q. Why isn't it so?

A. The second officer was in charge of the "Celtic Chief."

Q. But you say now that you told the captain to go below and rest that you would look out for the ship?

A. I did not look out for the ship. The second officer [2540—1709] was on watch. I gave what advice I could to the second officer. He represented the master of the ship.

Q. You didn't give commands on board that boat?

A. No; I gave advice.

Q. Was it advice when you told the second or first officer to let go the anchor when you were approaching the shore? A. It was advice.

Q. It was not a command? A. Not a command.

Q. Did you expect to have the anchor let go immediately because advice was given and not a command? A. I did.

Q. Why did you say then, on direct, that your orders were obeyed and six topsails were set? Why did you use the word "orders" then, if you were giving no commands on board of that ship?

A. I gave the orders, if you can call them orders, or advice, to set the six topsails. I wished the four fore topsails put back to head the ship off the reef.

(Testimony of J. R. Macaulay.)

Q. That's not the question at all. I'm asking you why you used the word orders when you said your orders were obeyed and the six topsails set?

A. Orders or advice.

Q. It's either orders or advice?

A. Or advice; they mean orders to be given if the captain wished so.

Q. You regard orders and advice as meaning the same thing? A. About similar from a pilot's—

Q. They mean the same thing to you?

A. Mean the same thing.

Q. When did she become solid on the reef, speaking now of the "Celtic Chief"? [2541—1710]

A. About sometime about Monday night.

Q. Sometime Monday night?

A. Monday night.

Q. Up to that time she hadn't been solid on the reef? A. She kept going in easy on Monday.

Q. Now, she was fairly pounding all day Monday?

A. No, she wasn't pounding by no manner of means, but she went in a considerable distance; and from Saturday night until Monday, quite a distance in.

Q. You testified, did you not, that the reason why the "Celtic Chief" was not thrown broadside around on the reef before the "Huki Huki" and the "Mikahala" arrived, or rather, the "Intrepid" arrived, was because her bow was held by an anchor, namely: her starboard anchor, and her stern was lodged in the reef securely enough so that that prevented her stern from swinging around. That's so, isn't it?

A. That's so.

(Testimony of J. R. Macaulay.)

Q. Yes. Well, now, when did she get into that position in that manner so that her stern was so lodged?

A. Her stern seemed to touch the reef occasionally from Sunday night.

Q. Well, we're talking about Sunday night, all the time Sunday night until the "Intrepid" and "Huki Huki" came on Monday morning.

A. We could feel her touch the reef.

Q. And you testified that her stern was so securely lodged in the reef that it prevented her being swung around broadside on the reef, notwithstanding the current?

A. No, I didn't.

Q. What kept her stern from going on the reef?

A. Because the ship drew more water at the stern than she did at her bow.

Q. And that prevented her from going broadside on the [2542—1711] reef?

A. Exactly so.

Q. And that means, does it not, that her stern was anchored?

A. It doesn't mean anything of the kind.

Q. If it were anchored would not the result have been that the action of the anchor would have kept the stern from swinging?

A. It means that she was drawing more water astern, but it doesn't mean that she was solidly aground astern.

Q. Her bow was anchored?

A. Her starboard anchor was down.

Q. That kept her from going farther around?

A. It kept her from going around.

Q. You're quite positive—didn't the current

(Testimony of J. R. Macaulay.)

strike her on the starboard side? A. Yes.

Q. Couldn't it have the tendency to throw her broadside on the reef? A. It would.

Q. It was her anchor on the starboard that kept her? A. She might have dragged that anchor.

Q. You testified, did you not, that it would be exceedingly dangerous to have hove up that anchor before the "Huki Huki" got there? A. Sure.

Q. And the reason was what?

A. Because it kept her to a certain extent from going on the reef.

Q. Then it did keep her bow from going further on the reef? A. Yes, to a certain extent.

Q. What was it that kept her stern from being swung around broadside on the reef?

A. Because she drew more water.

Q. That is to say, the reason why the current didn't [2543—1712] throw her stern broadside on the reef was because her keel at her stern was not touching the reef and preventing the current from having that effect?

A. Would not prevent the current at all.

Q. What did prevent the current from throwing the stern around on the reef?

A. Nothing prevented the current. The current was right up against the ship.

Q. What prevented the swell then from throwing her around, broadside on the reef?

A. The ship, at that particular time was laying with her head about northeast; starboard anchor down; she would touch occasionally; there was no wind and what little swell there was at that time was



(Testimony of J. R. Macaulay.)

coming in from the southward; she wasn't doing any apparent damage to herself. Is that satisfactory?

Q. Was there any noticeable change in the swell from what it was before midnight up to morning?

A. Before midnight, yes. Quite a difference in the swell. It was coming in another *direct* entirely.

Q. And what was the direction it was coming from? A. South.

Q. Striking the vessel on her starboard quarter? That's correct? A. That is correct.

Q. And you testified, did you not, just before the noon recess, that there was a considerable swell running? A. I say so still.

Q. Now, then, I'll ask you if there was any noticeable increase in swell as morning approached?

A. The swell varied from the time that the ship was on the reef. Sometimes it would be a little, there wouldn't be so much swell, and then for a short period [2544—1713] of time there would be considerable swell. All the time the ship was on the reef there was no day that it continued the same.

Q. Answer my question. Was there any noticeable change in the swell as morning approached, from Sunday night? A. Yes.

Q. What was that change?

A. The swell came from the southward.

Q. When did that begin to come from the southward? A. When the sea nearly died out.

Q. And that was about what time?

A. That was afterwards—Monday morning, afterwards.

(Testimony of J. R. Macaulay.)

Q. What was the direction of the wind when you approached the reef for the first time on Sunday night? A. That was northeast.

Q. That was a trade? A. Trade wind.

Q. That died down? A. That died down.

Q. *About or* about nine o'clock?

A. It died down, yes, about that.

Q. And it was calm from that time onward until this light breeze sprung up from the shore?

A. Exactly.

Q. Now, where was this swell striking from after nine o'clock and before midnight?

A. At midnight there was no swell much.

Q. No swell at all? A. There was some swell.

Q. Why did you testify before the noon hour, then, that there was a strong swell running, when I asked you why you didn't go ashore in one of the boats?

A. I didn't say there was a considerable swell.

Q. You didn't? A. No.

Q. And there was not?

A. I said there was an [2545—1714] ordinary swell; they could have launched a boat.

Q. And if you said there was considerable swell, is that erroneous? A. No.

Q. Which is correct?

A. There is always considerable swell on the reef.

Q. About eleven o'clock where was the swell running and in what direction?

A. About the same direction.

Q. What direction is that? A. South.

Q. Directly south? A. Yes.

(Testimony of J. R. Macaulay.)

Q. Striking the ship on the starboard quarter.

A. Exactly.

Q. And that's the direction kept from that time on until morning, isn't it?

A. Until the ship got off.

Q. Now, then, was there any material change in that swell? A. There was.

Q. From that time on until morning, Monday morning, until Monday morning?

A. There was a change in the swell.

Q. What was that change?

A. Sometimes it would be larger and sometimes it would be smaller.

Q. That was true of Monday?

A. It was during the night and during the day.

Q. That true of Monday, wasn't it?

A. All the time.

Q. I want to know as a regular thing throughout the day if there was a material change in that swell as it was on Sunday night and as it was on Monday?

A. On Sunday it was a different swell altogether.

Q. I'm talking on Sunday night from eleven o'clock onward, until Monday morning?

A. It remained about the same. [2546—1715]

Q. In other words, when a heavy swell would come in after eleven o'clock there would be a like heavy swell on Monday?

A. Heavy swells would come in occasionally.

Q. Would the heavy swells come in about as often on Monday morning as on Sunday night after eleven o'clock? A. About the same.

Q. And about as large when the heavy swells did

(Testimony of J. R. Macaulay.)

come in? A. Somewhat similar.

Q. About the same? A. About the same.

Q. Now, then, I want to know, Captain, why it was that that swell, striking the "Celtic Chief" on her starboard quarter, didn't, with the action of the current, also striking her on her starboard quarter, did not throw her stern broadside on the reef, throw the stern around to the westward so that she would have been broadside on the reef before aid arrived on Monday morning?

A. The Almighty had control of the elements, not me, and I can't tell you what was the reason.

Q. That's the only answer you can give to my question? A. I don't quite understand the question.

Q. I've asked you if that is the only answer you can give to the question? A. That's the answer.

Q. So you don't know, in fact, why it was her stern was not thrown around on the reef?

A. I answered that question already.

Q. And why would that prevent the swell and current from throwing her broadside on the reef, if that's the reason. I want to know whether it's the reason? Can't you answer my question?

A. The ship's draught of water had something to do [2547—1716] with the ship in going broadside on the reef. There was no wind at all in the early part of the morning when the swell—

Q. Now, then, will you answer my question?

A. That is the answer. I've answered your question as near as I can.

Q. Why would the operation of the vessel astern prevent her from being thrown broadside on the reef

(Testimony of J. R. Macaulay.)

due to the action of the swell and the current?

A. Because the fore part of the ship threw her further than the anchor.

Q. And would it prevent the swell and the current from throwing her broadside on the reef?

A. Exactly my answer to your question about the stern of the ship.

Q. In other words, it did because it did?

A. It did because it did.

Q. And that's the only answer you can give?

A. That's the only answer anybody can give.

Q. Why, then, if you can't explain why the draught made a difference, did you give that as an answer?

A. I've answered the question about twenty times.

Q. Can't you tell me whether the draught did have anything to do with it? Why did the greater draught prevent the swell and current from throwing her broadside on the reef?

A. Isn't it a natural consequence, if the ship is drawing more water aft than she is forward that the aft part—

Q. Now, suppose the "Celtic Chief" had been lying in ten fathoms of water, would her greater draught astern [2548—1717] have prevented her from being thrown around broadside on the reef?

A. If she had been lying in ten fathoms of water she would have swung to her anchor.

Q. Wouldn't her stern have swung around to westward? A. Yes.

Q. On account of the greater draught astern was it that she didn't?



(Testimony of J. R. Macaulay.)

A. Because her stern was up against the reef.

Q. That's just exactly what I asked you some time ago. A. I told you that about twenty times.

Q. In other words, because her stern was attached to the reef that prevented her from going ashore?

A. Yes.

Q. In view of the fact that you've answered that *no* once, I'll assumed to repeat again what is your testimony already. The fact that her keel was resting on the reef prevented her from being thrown broadside around further.

A. At that time there was sufficient swell or wind to cause the ship to go further on the reef.

Q. And it was the same kind of a swell that was running on Monday?

A. The same only at different times.

Q. The heavy swells came as usual and as often as they did on Monday?

A. I'm not prepared to say they did.

Q. Didn't you swear to that not more than five minutes ago?

A. I told you the swells varied during the time the ship was on the reef.

Q. Do you appreciate the fact, Captain, that I asked [2549—1718] you a few moments ago whether or not these swells, when they did come in, came in as often at eleven o'clock until Monday morning as they did on Monday and you answered, yes? Do you appreciate that you so testified?

A. I appreciate that I have told you as near as I can possibly remember that the swells varied from the time the ship was stranded until she floated. I

(Testimony of J. R. Macaulay.)

can't tell you any particular date. I took no particular notice of the swell at any time. I've said already that I've taken no notes of time only the time that she came off the reef. Former counsel has asked me repeatedly, and I mentioned to this Honorable Court that I took no notes of time, and still you insist in asking me when and what time.

Q. I want to know why you testified a few moments ago that the swell came in as often after eleven o'clock until the morning of Monday as it did on Monday and as large when the swells did come in. Why did you so testify?

A. Because that was my opinion.

Q. It is still your opinion?

A. It is still my opinion.

Q. If the swell was running as it did on Monday, as often and as large, I want to know why, in your opinion, the stern of the "Celtic Chief" was not thrown broadside on the reef if not because her stern was aground or her keel rested against the reef?

A. The aft of the ship being on the reef caused a restriction to the swell and the current, and held her in that position until aid arrived.

Q. Isn't it the fact that that swell, even though it was running as it did from eleven o'clock on Sunday night [2550—1719] until Monday morning, as often and as large as it ran on Monday, nevertheless because the "Celtic Chief's" keel astern was resting upon or against the reef, therefore the "Celtic Chief's" stern was not swept around farther to westward? Isn't that the fact?

A. Yes, to a certain extent; yes.

(Testimony of J. R. Macaulay.)

Q. What other cause was there that prevented it from being swept around that way?

A. The starboard anchor held the ship partly from being thrown broadside on the reef.

Q. Now, what part of the ship was being thrown around that way? A. The bow of the ship.

Q. I'm not talking about the bow, but the stern.

A. You asked me the question about the ship.

Q. What prevented her stern from being thrown around in that manner?

A. The reef being in contact with her keel.

Q. And that's the reason that her greater draught astern prevented the stern from being thrown against the reef farther to westward?

A. That's what I told you.

Q. I'm sorry to differ with you, but you haven't told me that before. Now, then, Captain, if the swell on Sunday night, after eleven o'clock, until Monday morning at daybreak, was as great a force as it was on Monday in the daytime and the current was running in the same way and the fact that her keel was resting against the reef lightly, as you have remarked already, if that was sufficient to prevent her from being thrown broadside on the reef, why did you say that eventually, without assistance, the "Celtic Chief" would have been thrown around broadside on the reef? [2551—1720]

A. Because, at that time, she was on the reef.

Q. And that was the reason?

A. She would eventually.

Q. Isn't it quite possible that in view of the fact that the swell was striking her but a very little bit

(Testimony of J. R. Macaulay.)

on her starboard quarter, almost striking her astern, that she would have driven headon farther, but not broadside?     A. No.

Q. That is not possible?     A. Not possible.

Q. Isn't it true that the farther she went ashore the deeper her keel went into the reef?     A. No.

Q. It isn't?     A. No.

Q. Doesn't the bottom gradually incline toward the shore?     A. It does.

Q. Isn't it true that the greater weight would be resting on her bow?

A. There would be no greater weight.

Q. Then what would happen?

A. A vessel of the "Celtic Chief's" class had a flat bottom.

Q. She had a keel?

A. That would make no difference.

Q. How deep is her keel, if she had the ordinary keel?     A. About six inches.

Q. Wouldn't the keel run down into the reef?

A. That wouldn't affect the vessel.

Q. Captain, you've been told time after time to answer my questions. I'm asking you whether or not her keel wouldn't run into the reef.

A. It would.

Q. And isn't it true that the farther ashore she went and the shallower the water became, the [2552—1721] heavier the keel would rest on the reef?

A. The farther she went in on that particular spot, the position of the vessel—

Q. Answer my question. Wouldn't she necessarily lie heavier on her bottom the farther in she

(Testimony of J. R. Macaulay.)

went and the shallower the water became?

A. Yes.

Q. Wouldn't it also be true that the farther she went inshore directly ahead and the heavier she rested on her bottom, her keel being at least six inches down in the reef, the more difficult it would be for that swell and current to have thrown her broadside on the reef? A. Naturally.

Q. And if, resting lightly as she was at the time, from eleven o'clock on Sunday night until Monday morning, daytime, if you think that was enough to prevent her from being thrown over around broadside on the reef, why, then, wouldn't it be true that when her keel bored into the bottom at least six inches and resting heavily on her bottom, why wouldn't that be true, that that would have a far greater effect toward throwing her broadside on the reef? A. It certainly would.

Q. So, then, you don't know, Captain, you couldn't even give an answer according to your best judgment, that she would necessarily or even probably be thrown around broadside on the reef if there had been no assistance given to her by outside agencies?

A. She certainly would.

Q. Why, if she had continued to be driven further inshore and her weight had become greater on her keel and her keel was buried in the reef, would that not prevent her? [2553—1722]

A. It would be a prevention.

Q. And you don't know whether it would take a month or six months for her to be thrown around broadside on the reef?



(Testimony of J. R. Macaulay.)

A. There is no living man can tell how long it would take.

Q. And it might never have been thrown around as far as you know?

A. There was a ship, ———, a ship twice the size of the “Celtic Chief,” that went ashore pretty near the same spot she went ashore, at two o’clock in the morning, and at daylight she was bilged and water-logged.

Q. Will you answer my question? It might never have been thrown around, might it, as far as you know?

A. It certainly would have been; there is no doubt about it.

Q. Suppose she had happened to run into a portion of the reef where there were some volcanic boulders which would have happened to lodge on the port side of her keel, would you say that those boulders would have kept her from going broadside on the reef?

A. I say that those boulders would have pierced the “Celtic Chief” and there would have been no occasion for salvage.

Q. Answer my question. The piercing of the “Celtic Chief” has nothing to do with the question of going broadside. I’m asking you if there had been some boulders there what would have been the result.

A. The result would have been those boulders would have pierced her bottom and she would have become waterlogged.

Mr. OLSON.—I move to strike on the ground it is not [2554—1723] responsive.

(Testimony of J. R. Macaulay.)

The COURT.—Motion overruled.

Mr. OLSON.—I'd like to have that in the record that the Court states—

The COURT.—Now, Mr. Olson, this has gone quite far enough.

Mr. OLSON.—If the Court please, I submit—

The COURT.—My ruling is in the record.

Mr. OLSON.—And your Honor's ruling was—

The COURT.—Pardon me, Mr. Olson, I'll hear no more on it. I've ruled and my ruling will stand. The answer is responsive so far as it goes, and it's something that's within my discretion to allow if I choose.

Mr. OLSON.—I move that the answer of Captain Macaulay in response to my last question be stricken from the record, the Court having stated that the answer was not responsive and having stated also that it is not within the discretion of the Court to leave irresponsive answers in the record.

The COURT.—The Court makes no ruling on the motion, Mr. Olson.

Mr. OLSON.—I have a right to sit here until my motion is ruled upon.

The COURT.—The Court will take a short recess.  
Recess.

Mr. OLSON.—The record does not contain what the Court said and I now insist upon a ruling to my motion.

The COURT.—I state now, it is responsive as far as it goes.

Mr. WARREN.—I want to be on record as opposing the motion to strike, for the reason that it is re-

(Testimony of J. R. Macaulay.)

sponsive [2555—1724] as far as it goes.

The COURT.—I'm going to sustain Mr. Olson's objection, but I'll say that I wish Mr. Olson not to think that the Court doesn't want to be fair to him.

Mr. OLSON.—The motion is now allowed, as I understand.

The COURT.—The motion is allowed.

Mr. WARREN.—I want to be on record that this answer is most certainly responsive as far as it goes.

Mr. OLSON.—Now, Captain Macaulay, please answer the question that I've asked you, whether or not, if there were some of these volcanic rock boulders that were catching the keel on the port side of the "Celtic Chief," if that wouldn't be sufficient to prevent the wind, wave, and current from throwing her around broadside on the reef?

Mr. WARREN.—Object to the question as indefinite, your Honor.

Mr. OLSON.—Under the kind of conditions of weather prevailing and sea prevailing, that prevailed from eleven o'clock on Monday until Monday night.

Mr. WARREN.—Same objection.

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question, Captain.

A. Monday night, to the best of my recollection, the tug, steamer "Mikahala," and the tug "Intrepid" and the steamer "Mauna Kea" had lines to the ship and held her in position so that if there had been boulders on her port side the fact of those steamers holding her would prevent her from going any closer to those boulders.

(Testimony of J. R. Macaulay.)

Mr. OLSON.—Move to strike on the ground that the answer is not responsive.

Mr. OLSON.—Withdraw my motion. Now, Captain, leave [2556—1725] out of account all towing agencies. Assume that there were no vessels with lines on her at all; no anchors out; if she had been, as I say, driven directly ahead inshore somewhat further, but she had come to a spot where there were some coral, not coral but volcanic rock boulders, sticking up sufficiently so that they had rested against the keel of the ship on the port side of the keel, length of the keel, would that not prevent the swell and the current, such as you observed on Monday, from throwing her around broadside on the reef, or would those rocks be knocked off, the top of those rocks be knocked off?

A. It would prevent her as far as the strength of the rocks were concerned.

Q. Now, then, Captain, if that is so, it shows, does it not, that it depends a great deal on what resistance there is on the port side of that keel, what resistance is afforded on the port keel by the level in which the keel is imbedded, whether or not the wind and the wave will be sufficient to throw her broadside on the reef. Isn't that true?

A. Taking the keel into consideration, the depth of the keel from the bottom of the ship, it would retard the progress of the vessel from going broadside on the reef, if it was imbedded in the bottom, but if the swell was stronger than the resistance the result would be that she would be thrown broadside on the reef.

(Testimony of J. R. Macaulay.)

Q. But, suppose the resistance were greater than the force of the swell?

A. Then she would stay where she was.

Q. Then, in order to get to the conclusion that you [2557—1726] gave us, that she would eventually go on the beach, you had to assume, Captain, that there would not be sufficient resistance and that the swell would be great enough to overcome that resistance?

A. I knew the nature of the bottom in that locality—

Q. Did you or did you not?

Mr. WARREN.—I object to counsel butting in.

The COURT.—Captain Macaulay, if you can answer that question directly please do so.

Q. Did you or did you not assume that?

A. I did not assume that.

Q. You then assumed—did you assume, then, that there would be sufficient resistance there to prevent the swell from throwing her around broadside on the reef? A. I did not assume that.

Q. You didn't either? A. No.

Q. In other words, you didn't take either into consideration?

A. No. I know from past experience the nature of the bottom.

Q. You know there is considerable coral there?

A. I do.

Q. Is it hard or soft? A. Soft.

Q. No boulders? A. Boulders of coral.

Q. But it's soft coral? A. Soft coral.



(Testimony of J. R. Macaulay.)

Q. No boulders, hard boulders?

A. No hard stone.

Q. And that's the reason that you answered that she would have swung around?

A. That is the reason, knowing the nature of the bottom.

Q. Because there was not sufficient resistance in [2558—1727] that bottom to prevent the swell from throwing her broadside on the reef?

A. That is my belief.

Q. If the swell became great enough?

A. If the swell became great enough.

Q. But the swell wasn't great enough at any time she was on the reef—isn't that so?

A. Well, that's the question.

Q. Well, Captain, you and all of the other witnesses that have testified so far in this case including yourself, have testified that the greatest swell was Monday; that it was less on Tuesday and still less on Wednesday. If that is so—

Mr. WARREN.—I challenge that assumption right now.

The COURT.—I'll allow the question.

Q. That being the case, Captain—

Mr. WARREN.—I object to the question, your Honor; it's got to be an assumption.

Q. Now, then, if that is so, in order to meet counsel's objections, if that was so, Captain Macaulay, and if, also, the swell that was running from eleven o'clock on Sunday night until Monday morning, was strong enough to throw the "Celtic Chief" around

(Testimony of J. R. Macaulay.)

broadside, even though it was barely touching the reef, wouldn't it necessarily ensue that, with that keel imbedded in the reef as it became later on, she would not have gone broadside as the swell was running during Monday, Tuesday, and Wednesday?

A. If there had been no other assistance, I believe she would.

Q. Then, kindly explain how it was that her stern didn't go broadside on from eleven o'clock Sunday night until Monday morning with a swell that was running [2559—1728] as heavily on Sunday as on Monday.

A. I fully believe that she was gradually canting her stern towards the reef from the moment she stranded until assistance came from shore.

Q. Do you wish then to redraw your diagram?

A. No, I don't wish to redraw my diagram.

Q. That diagram shows, does it not—

Mr. WARREN.—I insist that the diagram be referred to.

Mr. OLSON.—All right. In order to meet counsel's objection, this is exhibit "F." Doesn't this diagram show that in position one the "Celtic Chief" was lying with her stern farther around to westward, pointing almost directly west and a little bit to south?

A. That diagram shows her in that position.

Q. That was the position that she was in first, isn't it? A. No.

Q. Isn't that the position that you have just drawn?

(Testimony of J. R. Macaulay.)

A. That is the first position according to that diagram, yes.

Q. Now, then, Captain, isn't it true that all the time the "Huki Huki" and the "Intrepid" arrived the next morning she had swung around to a position further to, that is, swung on this mark?

A. Exactly.

Q. That means, does it not, that her stern, if anything, had swung to eastward and not to westward; isn't that the fact?      A. Her bow.

Q. What about her stern?

A. Her bow, the whole body of the ship, her stern had come to the eastward and the ship's bow had gone too.

Q. Her stern had swung to the eastward?

A. To the eastward.

Q. Against the swell?

A. Against the swell [2560—1729] and against the wind.

Q. So that, even with the swell running as it was from eleven o'clock Sunday until Monday morning, her stern, instead of swinging to the westward, swung up against the swell?

Mr. WARREN.—That's directly in the face of the evidence in this case, that that boat, from eleven o'clock until daylight, was there.

Mr. OLSON.—Isn't that true? I'll add that to the question.

Mr. WARREN.—My objection is this: he is taking her position for granted and asks him what the object was that threw her broadside that way.

The COURT.—I'll allow the question.

(Testimony of J. R. Macaulay.)

Q. From eleven o'clock on Sunday night until Monday morning. Answer the question, Captain.

A. The ship's bow swung to the westward; naturally, the line of the ship changed and took position number two, according to that diagram.

Q. Well, did her stern swing either westward or eastward or did it remain stationary?

A. I don't believe that her stern moved to the eastward any, but the end of her bow, swinging to the westward altered the bearing of her stern.

Q. But her stern did not swing to westward, did it?

A. Her stern did not swing to the westward in the drive of the current and the swell.

Q. Now, then, Captain Macaulay, will you state what time it was that you began to make your attempt to get off the reef, taking advantage of the light breeze that sprung up on Sunday night? [2561—1730]

A. About two o'clock in the morning.

Q. And how long was it before you were back again on the reef?

A. It took the time to set the sails and heave away. It must have taken fully an hour or so before we got the sails set; took considerable time to loosen the sails and set the sails and heave in on our starboard cable.

Q. Well, what time was it when you got back that night?

A. It was about an hour or so afterwards; after we had set the sail.

Q. So it would be somewhere in the neighborhood

(Testimony of J. R. Macaulay.)

of four o'clock. A. Before four o'clock.

Q. About half-past three.

A. Somewhere around there. About half-past three.

Q. And about half-past three you were in which position of the three that you had drawn on this diagram, being Libellant's Exhibit "F."

A. Well, I really forget that spot or what position we held there according to this diagram.

Q. Weren't you lying almost broadside at that time? A. No, not quite.

Q. Well, almost, her stern was in shore?

A. Yes, her stern was a little in shore.

Q. Then it would be position number one, this position here, the dotted diagram?

A. Somewhat, quite similar to that.

Q. And between half-past three o'clock in the morning of Monday and the time the "Huki Huki" and "Intrepid" arrived she was gradually swinging around until she got into the position which you have drawn as number two?

A. She got around [2562—1731] to position number three.

Q. Wasn't that after you let go her bow anchor? Isn't that so?

A. No, I don't believe it was. We were coming pretty near that position number two when the "Intrepid" and the "Huki Huki" got back of us.

Q. That was about the position—

A. That was the position number two.

Q. Now, then, if that is the fact, Captain, the swell which was running from half-past three on, until



(Testimony of J. R. Macaulay.)

the "Huki Huki" and the "Intrepid" arrived, instead of throwing the "Celtic Chief's" stern more to westward and, therefore, more broadside on the reef, only forced her bow in farther ashore, leaving her stern in practically the same position and, if anything, a little bit to eastward; isn't that so?

A. Well, after the "Intrepid"—

Q. No, before. I'm asking about before the "Intrepid" came? A. Before?

Q. Yes, about half-past three of the day the "Huki Huki" and "Intrepid" arrived?

A. Number two was her position at that time when they took hold.

Q. I'm not asking about that?

A. What is the question?

Q. If she was in position number one, the dotted diagram on that exhibit, at half-past three o'clock in the morning, after you had tried to get her off by means of this light wind that had sprung up from shore, isn't it true that by the time that the "Intrepid" and "Huki Huki" had arrived only her bow had swung in farther ashore and to westward and that her stern had [2563—1732] remained practically stationary? A. About so.

Q. But, if anything, had swung to eastward?

A. The position of the ship changed as I have drawn it on this diagram. Her bow swung around to the westward, naturally her stern followed her bow and that was her position.

Q. So that her stern swung to the west the same as her bow?

A. Well, I'm not prepared to say that her stern

(Testimony of J. R. Macaulay.)

swung up against her stern, to her bow.

Q. And her stern remained practically stationary? A. Practically so.

Q. So that I would like to have you explain why it was that this swell, running from half-past three o'clock Monday morning, until daybreak of Tuesday, the cargo leaving her, wouldn't that swell throw her stern also to westward?

A. I believe I've answered that question before. It seems to me that I've answered that question by stating that she was drawing more water aft than she was forward.

Q. And if she continued to draw the same amount of water there'd be no assistance at all required? The same situation would have continued. Her bow would be and it was more to westward and her stern would be more or less stationary?

A. No, she wouldn't have maintained that same position throughout; not possible.

Q. Well, I'd like to ask why her stern swung to westward in daylight if it wouldn't do so in darkness?

A. Daylight and darkness have nothing to do at all with the draught of the ship.

Q. If the stern did not swing to westward from half-past [2564—1733] three o'clock on Monday night until Monday morning, why would it swing to westward in daylight Monday morning with the same kind of a swell prevailing?

A. The same kind of a swell did not prevail.

Q. Didn't you testify that the swell running Sunday night and Monday morning, from eleven o'clock

(Testimony of J. R. Macaulay.)

of Sunday night onward, that the swell that was running was, that the swells were coming in as often as during Monday, and as large as during Monday? Now, how do you explain that with what you have now said?     A. Those are not the facts.

Q. Didn't you so testify?     A. No.

Q. What did you testify?

A. I testified that the swells varied.

Q. Didn't you say that they came in as often on Sunday night as they did on Monday, and as large?

A. There was no regularity at all about the swell.

Q. Do you now wish to alter your testimony?

A. I do not, positively not.

Q. Well, now then, were the swells smaller on Sunday than they were on Monday?

A. On Sunday they differed very much.

Q. Were they larger or smaller on Sunday night from half-past three at night until daybreak of Monday?     A. They were smaller.

Q. Oh, they were smaller.

A. They were smaller.

Q. Why did you testify then, a short time ago, that they, as far as you remember they were the same?     A. I didn't testify.

Q. You didn't so testify?     A. I did not.

Q. You are sure of that?     A. I am sure of that.

Q. Now, then, Captain, having stated, as you said, that [2565—1734] the swell did come in as often and when they did come that they were as large on the night, on Sunday night, as at Monday morning, why do you now desire to say, or change your testimony?

(Testimony of J. R. Macaulay.)

A. I don't wish or desire to change my testimony. Anything I've said in this Court I've testified as near as I possibly can to the truth. I have stated in this Court that when the trade-winds were blowing there was no southerly swell and when it became, the swell did come in from the southward and remained from the southward from the time the ship was stranded until she came off the reef.

Q. And when you said some time back, as I have already referred to that testimony, that from eleven o'clock Sunday night until Monday morning the swell that was running was only when the swells would come in as often and as large as during Monday, that was the truth?

A. I don't take it that way.

Q. All right, let's go back and read it again. Do you desire to make any explanation, Captain Macaulay? Do you desire to say anything here?

A. I desire to try and explain as near as I possibly can the condition of the sea from the time that I went on board of the ship until she was floated.

Q. And you've already covered that pretty well.

A. There are times when I can't remember the exact condition of the sea. On Sunday night, as the counsel has asked the question, how was the sea? To the best of my recollection after the wind, the trade-winds died out there was no southerly swell for a certain period of time. After a certain period of time in the [2566—1735] night the southerly swell came in. The southerly swell did come in.

The COURT.—You testified that before. Now,

(Testimony of J. R. Macaulay.)

Mr. Olson desires an answer in regard to the height of the swell.

A. The swell did come in from eleven o'clock pretty regularly towards daylight. There was spells when it was smooth, then spells when it would be rough, but take it right through during the night until daylight, there was very little difference in the swells.

Q. Yes. Now, then, kindly answer my question. Didn't you testify that from eleven o'clock onward—I'm not now referring to any time previous to eleven o'clock, but from eleven o'clock onward, Sunday night, until daybreak Monday morning, didn't you testify that the swell came in as often as it did on Monday during the day, and as large as during Monday, during the day? Now, let's go back and refresh your memory. (Testimony read.) Now, you've heard the testimony where you testified before that from eleven o'clock onward, Sunday night, until daybreak, the swells came in as often and about the same, as far as their size was concerned, as on Monday during the daytime. Was that true or wasn't that true?

Mr. WARREN.—Was that daytime or on Monday morning?

The COURT.—I allow the question.

Mr. OLSON.—I'll reframe the question. And having testified as you did, Captain, that the swells kept coming in from eleven o'clock on Sunday night until daybreak of Monday morning, as often and they were as large as on Monday, I want to know now whether that [2567—1736] was true or un-



(Testimony of J. R. Macaulay.)

true; whether you were telling the truth or were not telling the truth.

A. To the best of my knowledge and belief I've told the truth; answered every question to the best of my ability.

Q. And when you so testified you told the truth to the best of your power.      A. I did.

Q. And you do not now wish to change it?

A. I do not.

Q. So, as a matter of fact, the swell, from eleven o'clock Sunday night until Monday morning at daybreak, came in as often and as large as during the day; that having been so testified by you that, then, is the truth.

A. During the day on Monday the swells varied.

Q. Is that an answer to my question?

A. Yes, I believe it is.

Q. Is that an answer as to whether or not what you testified before is true or untrue?

A. I told you that what I testified to the best of my knowledge and belief this record is true.

Q. So that, as a matter of fact, it was coming off the same. The swell, I mean, was coming off as often and as large during the night of Sunday after eleven o'clock until Monday morning, daybreak, as during Monday in the daytime. That having been testified by you is the truth, is it not?

A. It is the truth with this explanation.

Q. All right, let's have the explanation of what you testified before.

A. The stage of the tide alters in shallow water, the heights of the swells.

(Testimony of J. R. Macaulay.)

Q. There was low tide on Monday as well as high tide, [2568—1737] was there not?

A. I believe so; two tides every twenty-four hours, every day.

Q. Now, then, Captain, that being the case, the swell would be the same, just the same, from eleven o'clock on Sunday night on until daybreak of Monday morning, during which time there was a high and low tide. Isn't that true?

A. The swell would be the same at the same stage of the tide.

Q. Now, then, Captain, by the time that the "Intrepid" and the "Huki Huki" had arrived, she had gone somewhat farther in on the beach, had she not, than she was at half-past three o'clock?

A. Yes, she had, to the Ewa a little bit.

Q. Directly, practically? A. Yes.

Q. And her keel, if anything, was imbedded deeper in the reef, was it not, than at half-past three? A. More of it.

Q. So that the reef there offered more resistance to the swell?

A. Yes, the farther she'd go in the more resistance there would be.

Q. Was there some little current from half-past three until daybreak on Monday morning? If her stern would swing around to westward, will you kindly explain why the stern was swung around in daylight if the keel had become more firmly imbedded in the reef, if the swell was the same, as you say, from eleven o'clock until daybreak?

A. The ship was swung more at the top of high

(Testimony of J. R. Macaulay.)

water than she was at dead low water, naturally.

Q. Is that your answer?

A. That's my answer. [2569—1738]

Q. But if she had become more deeply imbedded in the reef would have a tendency to overcome this riding, would it not? That is, she was drawing so much water the more she went in on the reef?

A. Yes, to a certain extent, the fact of her going in closer on the reef would have effect upon her motion.

Q. Now, isn't it also the fact, Captain, that in her position on Monday morning that she presented less surface to the swell than she had earlier, say about half-past three o'clock in the morning? A. Sure.

Q. So that the swell was far less effective for that reason, was it not? A. Sure.

Q. It was striking her more directly astern?

A. The farther she went in on the reef in that way the less effect the swell would have upon the ship.

Q. Now, then, Captain, all of this being true, Captain, and her stern not having been swung further to westward, more broadside, as you have stated, while she had no assistance, isn't there every reason to suppose that she wouldn't have gone broadside on the reef during Monday with the swell that was running then, it being no greater than on Sunday night until Monday morning? Isn't there every reason to assume that, having the assistance of both vessels her stern would have retained the same position as before and would not have shifted to westward?

A. I fully believe that the ship, from the moment

(Testimony of J. R. Macaulay.)

she touched the reef, was gradually and continually altering her position; that she would not remain constantly in the same position.

Q. Well, you have not answered my question. Isn't [2570—1739] there every reason to assume that her stern would have retained the same position as before daylight and would not have shifted to the westward?

A. Daylight or darkness would have no effect at all.

Q. And if her stern had not swung to westward during darkness on Monday morning, with the same kind of swell running, there would be no reason to assume that it would move during daylight, with the same swell running? A. That is so.

Q. Even if the "Intrepid" and the "Huki Huki" had not got out there, the same conditions prevailing as you have spoken of, there is no reason to assume that she would go broadside during Monday and on Tuesday?

A. We can't foresee those things. We can't tell what is to come. We can tell what is past but we can't look ahead and tell what is to come.

Q. You have described the swell as being no greater on Monday morning than it was Monday, and if it was no greater on Monday morning and no greater Monday and no greater on Tuesday, Captain, doesn't it follow almost necessarily that there is no reason to suppose that the stern would be shifted westward during those two days and that night any more than she did early Monday morning?

A. Yes, she would not move.



(Testimony of J. R. Macaulay.)

Q. But I have asked you first if there is any reason to assume that her stern would be moved to westward any more during daylight than during darkness?

A. Daylight and darkness have nothing to do with it.

Q. If the winds were the same during daylight as during darkness on Monday morning, would not there be [2571—1740] every reason to assume that her stern would not move toward the westward?

A. I believe my diagram shows plainly that the vessel moving and did not maintain the same position for any period of time until those boats came to her assistance.

Q. And does your diagram show that her stern moved to westward?

A. My diagram shows the motion and the position of the ship at three different periods of time.

Q. Doesn't it show that she had shifted her stern from evening further over to the westward to a position to eastward?

A. Naturally, it would follow that if her bow fell off to the westward her stern would head towards the eastward. That is a natural conclusion.

Q. Now, if that is the case, and if her stern did not go to westward, as your diagram shows it did not, is there any reason to assume that after daylight she would move her stern to the westward?

A. I fully believe that she would continue to move according to those diagrams, her bow to the westward, until she was finally broadside.

Q. That's what you believe when you say she



(Testimony of J. R. Macaulay.)

would have gone broadside on the reef, her bow would have worked around. Suppose that her anchor had got hold of a boulder.

A. In that location, if the sea came in, it would not hold.

Q. But the Miller anchor held.

A. There is no comparison between the two.

Q. What is the difference? [2572—1741]

A. Because the Miller anchor was laid in deep water.

Q. Is there any reason to assume that the bottom would not have afforded as good holding ground in one position as in the other?

A. The bottom where the Miller anchor was sand and coral.

Q. So it was hard, was it not?

A. Just the same as where the "Celtic Chief's" anchor was, but deeper water, that was the only difference in the nature of the bottom.

Q. Now, then, Captain, if the swell in the position that the "Celtic Chief" was in when the "Intrepid" arrived was striking her almost dead astern, doesn't it follow that if her bow would have swung around a little over to the west the swell would have struck her dead astern and have a tendency to throw her stern on the reef?

A. The bow did swing to the westward and it did have a tendency to put her stern on the reef.

Q. The swell would not have any more tendency to throw her broadside than if it had come directly in line with the ship.

A. The swell taking the ship off astern. If she

(Testimony of J. R. Macaulay.)

continued that motion would take her on the port quarter and the further she went with the bow to the westward it would continue to go more until the swell would take the ship right abeam and then the deluge. That is my humble opinion.

Wednesday, September 27, 1911.

Mr. OLSON.—You testified, did you not, Captain Macaulay, that the principal tendency of the swell was to drive her farther inshore, directly ahead, but there was some tendency, in view of the fact that the swell [2573—1742] struck the ship a little on her starboard quarter to throw her broadside?

A. Yes.

Q. The principal tendency was to throw her directly inshore, bow forward?

A. That was the tendency.

Q. How did you know, Captain, that the—how did you know that the Miller Salvage Co. after having gotten their line from the anchor on board the ship by means of the manilla hawser that you've spoken of, how do you know that they began to heave in the slack? A. Because I saw the whole operation.

Q. You were there watching it?

A. I was there watching all the proceedings.

Q. About what distance would you say there was between the two blocks of the main purchase tackle as rigged originally when the Miller anchor was attached to that, to the first block?

A. The length of the ship's deck, from the break of the poop to the bitts forward on the starboard side, forward of the starboard forerigging.

(Testimony of J. R. Macaulay.)

Q. Just about opposite the foremast, was it not?

A. A little forward of the foremast.

Q. How much do you think that distance was?

A. It depends upon the length of the ship. I should judge somewhere about one hundred and seventy-five feet or so; somewhere around there.

Q. And in getting in this hundred feet of slack that you've spoken of, the block must have travelled about that distance along the deck according to your observation?

A. I know they had to fleet the purchase in order to take in the slack of the main tackle. [2574—1743].

Q. You observed what they did, did you not?

A. I did.

Q. And your judgment was that they took in about a hundred feet of that slack?      A. Maybe so.

Q. That's what you testified, is it not?

A. Maybe so.

Q. If you so testified that's true, is it not?

A. If I so testified I believe it is true.

Q. And you still believe that's true, do you not?

A. I do.

Q. Now, if that's so, Captain, how in the world could that shackle be in the chock of the ship at the time the "Celtic Chief" came off when the line of the "James Makee" was within sixty feet of the "Celtic Chief" at the time before there was anything except the messenger line attached to it and it was within fifty feet, you said possibly ten feet less, when you said the manilla line was made fast? Now, if a hundred feet of ground tackle was taken

(Testimony of J. R. Macaulay.)

in, that shackle must have been through that chock on the afternoon?     A. It is not so.

Q. The main wire line—

A. I will try to explain to you, Mr. Olson, to your satisfaction and the Court's satisfaction, the condition of the ground tackle.

Q. I've understood you that you answered me by saying that is not so.

A. I have partly answered you.

Q. Now, then, Captain, it's true—

Mr. WARREN.—I object, your Honor. Captain Macaulay had his mouth open to say another word when counsel [2575—1744] started to ask the question.

The COURT.—The witness wants to—he's giving the answer and if he wants to say more he ought to say it, and if it is not proper it will be stricken out.

Of course, Captain Macaulay, in your answer confine yourself to questions as far as you can. If you can't answer a thing by yes or no at any time, if you will state whatever you have to say and the Court will pass on it, but as far as possible when the examiner asks you a question try to answer the question directly. You can't always do that, perhaps, but if you can't, I'll give you opportunity at any time to make yourself fairly understood.

The WITNESS.—If it please this Honorable Court, Mr. Olson is a learned counsellor at law, I suppose. I am only an ordinary seafaring man, but it seems to me that all the questions that he has put to me is parables. He puts them to me in parables. If he puts a question to me in a friendly, open man-

(Testimony of J. R. Macaulay.)

ner I'll answer them. When he puts those questions to me in parables how is it possible for me to answer?

Q. All right. When I ask you whether or not—

A. My evidence is not based at all upon assumption in this case. My evidence is based on facts to the best of my knowledge and belief and I wish to give my evidence on the truth to the best of my knowledge and belief, not upon assumption and I wish—

Mr. OLSON.—I then object at this time. I am not obliged to submit to a criticism of the witness of my conduct in this case. [2576—1745]

The COURT.—Captain Macaulay, an attorney has the right to test the knowledge and the skill and all that of a witness, by asking hypothetical questions. Of course, those are based on conditions which may not be the truth as you see it, but they have the right to ask those questions and I think that's what's been troubling you in the manner that you speak of the cross-examiner is allowed, the Court allowed him to ask these questions and all kinds of questions to test the knowledge and all that of the witness. If Mr. Olson's questions aren't understood, why, you have the liberty to ask him to put them in another way so that they will be understood.

Q. Now, then, Captain Macaulay,—

Mr. WARREN.—I understood your Honor—

The COURT.—I have stated if the answer cannot be by yes or no he can say so.

Mr. OLSON.—Captain Macaulay, you testified did you not—

Mr. WARREN.—I object to any further interrog-



(Testimony of J. R. Macaulay.)

atories until the witness has stated whether he is finished or not.

The COURT.—I'll leave that to redirect.

Q. Captain Macaulay, you testified, did you not, that the "James Makee" brought the end of the big wire line attached to the Miller anchor, within sixty feet of the "Celtic Chief"? Did you not?

A. About sixty feet, yes.

Q. Yes. About sixty feet. From that time on it was hove in still farther by means of a messenger line? That is true, is it not?

A. From the time that the "James Makee" ran that wire [2577—1746] rope from the anchor there was an eight-inch manilla hawser bent on and the end of the eight-inch manilla hawser was taken on board of the "Celtic Chief."

Q. All right. Now, let's have an answer to my question. A. I'm not finished with that.

Q. What? A. I haven't finished my answer.

Q. Go on and finish and leave out supposition that has nothing to do with my question.

A. There is no supposition. It's facts. The length of that eight-inch manilla hawser, to the best of my knowledge and belief, extended two hundred feet in length. It was put overboard and taken in on board of the "Celtic Chief" and the slack was taken in until an ordinary strain was put on by the luff tackle. After the ordinary strain was put on it by the luff tackle the main purchase was attached to it.

Q. Are you through with your answer?

A. No, I'm not through.

(Testimony of J. R. Macaulay.)

Mr. OLSON.—I appeal to the Court. Am I obliged to have my record filled up with a lot of stuff that has nothing to do with my question?

The COURT.—Now, Captain Macaulay, in order to save time, I have to draw the line somewhat closely, leaving to your counsel the opportunity to bring out everything on redirect examination. As far as you possibly can, answer the question of Mr. Olson's directly. If you do so I think your counsel will bring out any explanation later.

Mr. WARREN.—Will your Honor also explain to the witness that if any questions are put to him that he [2578—1747] can't answer he has the right to have them asked again.

The WITNESS.—Will your Honor allow me a few remarks?

Mr. OLSON.—Now, if the Court please, I submit that the witness has no right to get up and make remarks which are not—

The COURT.—Along what line?

The WITNESS.—On the question if counsel here puts a question here in parables that I can't understand, am I allowed to ask him for an explanation and give him an answer in the best way I can?

The COURT.—If you can't understand, that's your privilege. You know, Captain Macaulay, in cross-examination, attorneys are pretty severe sometimes in their manner, to test the witness' accuracy and all that, so the witness should guard against being disturbed by that sort of thing.

Mr. OLSON.—Now, then, Captain, isn't it true that the "James Makee" brought the end of the big

(Testimony of J. R. Macaulay.)

wire line within sixty feet of the "Celtic Chief"?

A. Somewhere about sixty feet.

Q. Now, when was it that messenger line was let go from that wire line?

A. The messenger line was let go a little to leeward of where the end of the wire hawser was let go.

Q. Which isn't the question. The question was, at what time? At the time that the "James Makee" brought it within sixty feet of the "Celtic Chief"?

A. Yes.

Q. Was the eight-inch manilla hawser then attached to the wire line? [2579—1748]

A. It was.

Q. Now, then, it was then, was it not, that they began to use the purchase tackles?

A. No, not at that time.

Q. Do you mean when you said that they took up a hundred feet of slack, including the amount of strain that was taken off by the messenger line?

A. The first slack that they took off was taken off by hand.

Q. Can't you answer my question?

A. That's the answer to your question.

Q. I asked you if you included in that hundred feet of slack the slack that was taken off by means of the messenger line. Now, kindly answer my question.

A. The messenger line was bent on to the eight-inch manilla hawser and it was taken on board by aid of the messenger line.

Q. The messenger line was bent on to the eight-inch line and was taken on by means of the messenger line? A. Yes.

Q. Answer my question whether or not you took

(Testimony of J. R. Macaulay.)

into consideration in answering that there was a hundred feet of slack taken in the slack taken in by means of the messenger line?

A. There must have been a hundred feet taken in.

Q. That was what you were talking about when you said a hundred feet?

A. No, no. That was the first slack of the line, then the luff was put on to take on the slack of the line and then finally a main purchase was put on.

Q. Isn't it the fact, Captain Macaulay, that you testified that after the line was made fast to the main [2580—1749] purchase tackle was made fast?

A. Then the luff.

Q. After the ground tackle had been rigged and the purchase tackles had been rigged, that thereafter a hundred feet of the slack of the ground tackle was taken in? A. It may be so.

Q. Isn't that what you testified?

A. It may be so.

Q. I'm asking you isn't that the truth that that was done?

A. Well, the truth is that I can't possibly tell the amount of slack that was hauled in with the eight-inch-hawser. I can't possibly tell how much slack was got by wire. No man could tell. How was it possible to see the slack in the bottom. I couldn't.

Q. Why did you—

Mr. WARREN.—I object.

A. No person could tell the slack of that eight-inch wire lying on the bottom. I fully believe that over a hundred feet of slack was taken in, before an extra heavy strain was obtained on that ground tackle, then the main purchase was put on.

(Testimony of J. R. Macaulay.)

Q. Now, then, why did you testify, then, that after this tackle was all rigged a hundred feet of slack was taken in?

A. The tackle was rigged before there was any slack taken in, laying on the main deck.

Q. Why did you testify that after the tackle was all rigged a hundred feet of slack was taken in?

A. So it was. I say so still.

Q. It became rigged, did it not, when the eight-inch manilla hawser, after the eight-inch manilla hawser was [2581—1750] shackled on to the wire line and that eight-inch manilla hawser was attached to the block of the first tackle when the first—

A. No, it is not so.

Q. What do you mean by saying that the tackle was all rigged? A. Hove.

Q. Didn't you use the word "rigged"?

A. Rigged or hove.

Q. It was rigged, then, when the main purchase tackle was not attached?

A. It was laid right there on the ship's deck to be attached when the slack was taken in.

Q. Now, we'll just refer to your testimony on this point. A. All right; I'm satisfied.

Q. Captain, you were asked this question on direct, now, calling your attention to the height and position of the block on the main deck, where it was fastened to the hawser, as you say, upon the poop, near the break of the poop as it was lying when it was rigged, then to the time when the fleeting of tackles had been carried on, to the question of taking in the slack of the line to the anchor-line so that it was more or less taut; in other words, in a position



(Testimony of J. R. Macaulay.)

for a strain to come on the line itself after the slack had been taken out, how much further forward on the "Celtic Chief" would you say that main block was as it was attached to the hawser in the position it was in at the break of poop when it was shackled on? In other words, how many feet of slack were taken up in the Miller line before it got taut?

A. There must have been about a hundred feet of slack taken up. [2582—1751]

Q. Now, do you still maintain that you were talking about slack being taken off before this eight-inch manilla hawser was attached to the block and before it was attached to the main tackle, notwithstanding your testimony on direct as I have quoted to you? Please answer the question.

A. It is an utter impossibility to take in the slack of the Miller salving ground tackle until that was attached.

Q. What was the answer?

A. That was the answer.

Q. Until what was attached, the eight-inch manilla hawser? A. The eight-inch manilla hawser.

Q. So you were talking about slack taken off after the eight-inch manilla hawser had been fastened on?

A. Exactly.

Q. And there was a hundred feet taken in after that? A. Of slack.

Q. You mean to say, then, do you not, that the ground tackle, in having its slack taken up, was straightened a hundred feet, do you not?

A. Surely. That would naturally occur.

Q. Now, then, if, at the time that that tightening began the shackle was within sixty feet of the "Cel-

(Testimony of J. R. Macaulay.)

tic Chief," does not it follow necessarily that that shackle must have come on deck of the "Celtic Chief" before that whole hundred feet had been taken in? A. Not possible.

Q. Kindly explain why that isn't possible.

A. Because that shackle at that time the slack was taken in there about sixty feet from the stern of the "Celtic Chief," then when the luffs were put upon the main purchase and the strain taken upon the Miller Salvage [2583—1752] ground tackle the shackle came within about forty feet of the stern of the ship "Celtic Chief" and there it remained with a steady strain.

Q. In other words, that shackle only travelled twenty feet in the taking in of a hundred feet of slack? A. No, no.

Q. Explain why that isn't so.

A. There was twenty feet more slack it had taken in.

Q. In addition to what?

A. In addition to the slack that was taken in previously.

Q. Now, then, Captain, having testified on direct that after the line was attached to the main tackle a hundred feet of slack was taken in, what portion of the line was taken in?

A. All the manilla rope and part of the wire hawser.

Q. Do you mean to say that there was eighty feet of slack between the tackle and the place where the manilla hawser was attached to the ship?

A. I don't say in definite feet.

Q. You said a hundred feet altogether?

(Testimony of J. R. Macaulay.)

A. I said a hundred and over; a hundred feet is all I know.

Q. All the manilla hawser, an eight-inch manilla hawser, was shackled on to the wire line sixty feet from the "Celtic Chief" and attached to the main block at the other end. How much slack was taken in between the shackle and the block and how much between the anchor and that shackle, in the taking in of that hundred feet or more of slack that you've talked about? A. I don't know. I don't know.

Q. Did you understand my question? [2584—1753]

A. Not exactly. I don't know. I do not—

Q. Isn't it the fact that if that shackle never came nearer to the deck than forty feet from the deck, or from the rail of the "Celtic Chief," that it only travelled twenty feet in the taking in of the hundred feet of slack?

Has my question been answered?

And there must have been eighty feet of slack then taken off between that shackle and the block.

You answered that yes, as I understand you?

A. I haven't answered that question so far. The distance—

Q. Answer that question.

A. We were waiting for you, Mr. Olson, to get through with—

Q. Answer that question.

A. The distance the shackle travelled previous to coming to the surface I can't tell or no man can tell, but I can tell, I'll give you an approximate idea of the distance that shackle did travel after it did come above the surface.

(Testimony of J. R. Macaulay.)

Q. Didn't you say that the "James Makee" brought the end of the line within sixty feet of the "Celtic Chief"? A. I did say so.

Q. And it was then that the manilla hawser was made fast to it? A. Previous to that.

Q. Then you know when that line was made fast? A. I had an idea.

Q. Then the manilla hawser was made fast, was it not, to the block?

A. The manilla hawser was made fast to the rail.

Q. And was, thereafter, made fast to the block of the [2585—1754] main purchase-tackle.

A. Afterwards, yes.

Q. So the end of the wire line was within sixty feet of the "Celtic Chief" before they began to take in slack of the manilla hawser and the wire line?

A. That is so; approximately so.

Q. Then, if the shackle never came within more than forty feet or less than forty feet of the "Celtic Chief" on Wednesday afternoon in the taking in of the slack, doesn't it follow that that shackle never travelled more than twenty feet?

A. No, it doesn't follow.

Q. Will you explain?

A. Because the "James Makee" had a line attached to the "Celtic Chief" and she stretched that wire rope from her anchor as much as possible; the fact of her letting go that wire rope in that condition, the wire would swing towards the anchor naturally, so, and would increase the distance accordingly.

Q. So that, after the manilla hawser became attached to the block, you think that the end of that wire line travelled at least forty feet out to sea?



(Testimony of J. R. Macaulay.)

A. No, I don't believe it travelled forty feet.

Q. Then it must have come through the chock of the steamer's bulwarks astern before that hundred feet was taken in?

A. The fact remains that it did not come in over the stern when there was a considerable strain to it.

Q. Then a hundred feet of slack couldn't have been taken in? A. It might have been more.

Q. Could it have done so without the shackle coming through the chock? A. It could.

Q. Now, explain how it was possible for that to be so [2586—1755] if that shackle was never further than eighty feet from the side of the vessel or from the chock.

A. By finding the length of that manilla hawser—

Q. I say if a hundred feet of slack had been taken in do you mean to say that a hundred feet from the place where that manilla hawser came through the chock in the first instance to the end of the manilla hawser, even though there was a loose line?

A. I believe there was a hundred fathoms of slack taken in before there was a strain held on that main tackle, about a hundred feet.

Q. I've heard you say that several times.

A. I'll state that was—

Q. I want you to say why or how it is possible for a hundred feet of slack to be taken in after that manilla hawser didn't have more than eighty feet from the chock out to the end of that wire, loose line outside of the chock. Now, then, kindly explain how that was.

A. I don't know the length of the wire attached to the Miller Salvage Company's anchor, neither do



(Testimony of J. R. Macaulay.)

I know the length of the hawser. It is impossible for me to tell you the reason why a hundred fathom, more or less, would be taken in but I know from my actual observation that there was a hundred fathom of slack, more or less.

Q. Hundred feet, don't you mean?

A. Hundred feet, more or less.

Q. You now say less?      A. More or less.

Q. Possibly less?

A. Possibly less, possibly more; approximately. I can't tell you in inches or feet. [2587—1756]

Q. Why, then, did you not say a hundred feet more or less, instead of saying a hundred feet?

A. About a hundred feet.

Mr. WARREN.—I object. Why doesn't he read the whole of it?

Q. Now, then, Captain, I'll withdraw that question, then, in order to meet this objection which counsel has the right to make and which he is making, and ask you this, that wire line was a heavy wire line, was it not?      A. Four-inch wire.

Q. What do you mean by four-inch wire?

A. If you refer to the wire on the Miller Salvage anchor—

Q. What do you mean by a four-inch wire?

A. Diameter.

Q. Four inches in diameter?

A. Four inches. All wires are measured by diameter.

Q. I show you four inches on a ruler and ask you if you meant to say there was a wire about that size, in diameter?

A. That was about the size of that wire.

(Testimony of J. R. Macaulay.)

Q. And if, as a matter of fact, the testimony is, by Captain Miller and all the Miller Salvage Company's witnesses, that it was a two-inch and a quarter diameter steel wire, would you be prepared to say that, in your opinion, it was more than two inches and a quarter?

A. If the Miller Salvage Co. measured the wire I would take it as a fact.

Q. You are not prepared to say that, in your opinion, it was more than two inches and a quarter?

A. I didn't measure the wire.

Q. How near did you ever get to that wire?

A. I had the wire in my hand.

Q. When?

A. When the ship came [2588—1757] off, and helped pass the wire over the stern of the "Celtic Chief."

Q. Now, then, Captain, isn't it true that that wire ran out eight or nine hundred feet?

A. I don't know.

Q. It was more than four or five hundred?

A. I don't know.

Q. You know where the anchor was dropped, do you not? A. Yes, I did.

Q. Wasn't that more than five hundred feet away from the "Celtic Chief"?

A. Somewhere about there, yes.

Q. Now, then, if the wire line was almost five hundred feet in length when the "James Makee" let go of it, after it had been attached to this eight-inch manilla hawser, it would follow, would it not that that eight-inch manilla hawser, would, by reason of

(Testimony of J. R. Macaulay.)

the weight of that wire line, be brought to a fairly taut position?

A. After the strain was obtained it came on a straight line.

Q. I'm not talking about any strain except the strain caused by this wire line attached to the anchor when the wire line fell back, being let go by the "James Makee." Wouldn't that, necessarily, pull this manilla hawser in a fairly taut position?

A. All there was of the manilla hawser was from the "Celtic Chief" to the end of the wire line.

Q. Was a bight formed on that occasion? How much of the line do you think there was from the side of the "Celtic Chief," eight-inch manilla hawser from the side of the "Makee"—I mean from the side of the "Celtic Chief"?

A. At that time. [2589—1758]

Q. At the time that the eight-inch line was put on?

A. There was no part of the manilla hawser of the "Celtic Chief" at that time.

Q. How far was it to the end of the wire line from the "Celtic Chief" after that wire hawser had been made fast to the main purchase block?

A. About sixty feet.

Q. And you saw that line?

A. I could see the line on the "Makee's" block.

Q. Could you see the line after it was attached to the block? A. I could.

Q. Could you see the whole of that entire block?

A. I could after it was floated.

Q. After what was floated? A. The line.

Q. And wasn't it floated before it was made fast

(Testimony of J. R. Macaulay.)

to that tackle? A. No.

Q. It was not?

A. No, it was laying on the bottom.

Q. And didn't they, as a matter of fact, didn't they pull in a sufficient amount of that eight-inch manilla hawser to bring it afloat before they made it fast to the tackle? A. No.

Q. They took the trouble, did they, of working the purchase-tackles to get that out of the water?

A. No, they did not.

Q. How did they get it out then?

A. When they bent the hawser on to the wire rope they let it go and hove the "James Makee" by means of a messenger up close to the quarter of the "Celtic Chief" and passed the end of the eight-inch hawser on board, then they proceeded to take in the slack by hand then afterwards when it was becoming slow work there was a [2590—1759] luff tackle put on and so on until it came to the main purchase.

Q. And you testified, did you not, Captain, that after that steel line had been made fast to the eight-inch manilla hawser, in your opinion, it did not go backwards or seaward from where it was?

A. I can't tell you how far it traveled under the water but I can tell you the distance it traveled when it came to the surface of the water, in the direction of the "Celtic Chief."

Q. Do you mean to say, Captain, that the "Makee" dropped this heavy wire line into the water, down to the bottom after the eight-inch manilla hawser was made fast to the blocks? A. Sure!

Q. Then it was good seamanship, wasn't it?

(Testimony of J. R. Macaulay.)

A. In my opinion it was.

Q. Then it wasn't bad seamanship when the "Arcona" attempted to send its big line on board without first buoying the end of its line?

A. There is no similarity in the case whatsoever.

Q. The end of the Miller Salvage Company's line was on the bottom when they began to heave on it?

A. Yes, it was on the bottom.

Q. And the end would naturally have a tendency to stick fast in the bottom would it not?

A. It had that tendency, yes.

Q. Now, then, Captain, if the Miller Salvage Company permitted the end of that wire line to drop down to the bottom where it would have a tendency to meet obstructions, that would interfere, would it not, very seriously with getting that line taut?

A. Not at all. [2591—1760]

Q. It would not?

A. Not at all; not seriously.

Q. Would it interfere any more in the case of the "Arcona's" wire?      A. It would not.

Q. Both ends would be meeting obstructions on the bottom?      A. Exactly the same.

Q. What did you mean when you said a few moments ago that that wire line, in your opinion, didn't go more than twenty feet back, seaward, after the manilla hawser was attached to it?

A. The natural spring of the wire.

Q. And you don't think it went back more than twenty feet?      A. About twenty feet.

Q. Now, then, if it went back about twenty feet it would pull, would it not, they would be pulled, would



(Testimony of J. R. Macaulay.)

they not, by means of heaving in on that eight-inch manilla hawser and get it fairly taut before they got it attached to the main block?

A. Oh, yes, after they got the slack in.

Q. They would naturally get the slack of the manilla hawser before the wire and they would get in that slack as much as they could before they made it fast to the main purchase tackle? A. Sure!

Q. They would be able, in that distance, to get it fairly taut even though they wouldn't be able to reach the wire line itself? A. Yes.

Q. So that, if the end of that wire line was more than eighty feet from the "Celtic Chief" as it lay on the bottom and the manilla hawser had been pulled in fairly taut before they began to use the purchase-tackle, [2592—1761] now explain how they could get in a hundred feet of slack without getting that purchase-tackle through the chock.

A. The purchase-tackle was on the main deck.

Q. The shackle.

A. The fact remains that that shackle on that wire after the Miller Salvage Company hove all their gear would stand was then not closer than forty feet from the stern of the "Celtic Chief."

Q. And you can't explain, then, how it could be that a hundred feet of slack could be taken in and that shackle still remaining forty feet away?

A. No, I can't explain it.

Q. They drew forth a hundred feet of slack were taken off and that shackle never came any less than forty feet on Wednesday afternoon?

A. When a severe strain was taken on the main tackle.

(Testimony of J. R. Macaulay.)

Q. It was then forty feet from the chock?

A. Yes.

Q. Then it follows, doesn't it, that either one or the other of those statements couldn't possibly be true?

A. They are true. Remember that I based my calculations on approximate distances. I've never taken the distance by measurement; according to the best of my knowledge and belief that amount of slack was taken in; to the best of my knowledge and belief there was forty feet of distance from the shackle to the "Celtic Chief" when there was an extraordinary strain.

Q. You measured the distance that the block moved on the deck?

A. I didn't take any measurements of any blocks.

Q. But you noted pretty carefully what they were doing? [2593—1762]

A. I noticed what everybody was doing, yes.

Q. What kind of a shackle was this that was used in attaching that eight-inch manilla hawser to that line? A. It was an iron shackle.

Q. Constructed of what material? A. Iron.

Q. Iron? A. Iron.

Q. Now, then, will you describe that shackle?

A. It was a shackle, ordinary shape.

Q. All right; kindly show, kindly draw, if you can, what that shackle was like, on a piece of paper.

Mr. WARREN.—I suggest it be drawn on one corner of one of the other documents so it won't be an extra sheet.

Mr. OLSON.—I hand you, Captain, Libellants'

(Testimony of J. R. Macaulay.)

Exhibit "F," which is a drawing you made. Will you kindly draw on one corner of this piece of paper this shackle as nearly as you can?

(Witness draws.)

Mr. OLSON.—Make it as large as you can on that space so that it will appear clearly what the shackle is like.

A. That's the side view of the shackle.

Q. Mark that Number One, please, O-n-e, in the middle of it.

(Witness writes.)

Q. You have marked the side view of the shackle Number One, have you?      A. Number one.

(Witness draws.)

Q. Now, you have drawn another view of the shackle, have you?      A. Yes. [2594—1763]

Q. Mark that Number Two. Instead of writing it, use the figure 2.

(Witness marks.)

Q. Is that the shackle that you've drawn?

A. That's about the shape of the shackle that I've drawn, the shackle to the wire cable of the Miller Salvage Company's tackle.

Q. Was there an eye through which a pin could be put?

A. Yes, that's the eye and that's the pin.

Q. And the wire line was bent around one part of it?

A. The wire was bent to one and the hawser to the other.

Q. Now, then, Captain, will you state what was the thickness of the shackle, each arm of the shackle?

(Testimony of J. R. Macaulay.)

A. I can't state it because I don't know.

Q. You saw it, didn't you?      A. I saw it.

Q. Well, what do you think, according to your recollection?      A. I couldn't tell you.

Q. Let us have your best judgment.

A. Might be two-inch diameter.

Q. Two inches in diameter?

A. Yes, two inches in diameter.

Q. Was it a round bar, bent round?

A. Bent bar with the eyes.

Q. So you think it was a two-inch in diameter iron bar bent round to make a shackle through the ends of which passed a pin?      A. A pin.

Q. Now, you say, do you not, Captain, that when that shackle finally reached the chock—now, Captain, you say, do you not that before the "Celtic Chief" finally came off the reef, or during the time that she was sliding off the reef, that shackle jammed in [2595—1764] the chock?

A. At the time the "Celtic Chief" was coming off the reef and had gone the distance from the taffrail, which amounted to forty feet, the shackle did jam in the chock.

Q. Did it ever come through the chock?

A. It did.

Q. How large is that chock?

A. Oh, I have no idea what the size of the chock is but it must have been the same size of the shackle.

Q. How's that?

A. The chock was a little bit smaller than the shackle.

Q. Now, they were heaving pretty strongly on that tackle?

(Testimony of J. R. Macaulay.)

A. There was an extraordinary strain on it at that time.

Q. Didn't pull the chock out of the ship's bulwarks? A. No, the shackle went through.

Q. How did it come through if it was jammed in the chock?

A. It pressed the shackle, I suppose, and with the powerful strain of the large purchase it came through.

Q. They were able to pull it through by means of the capstan?

A. I don't know. I think they were using steam.

Q. You are sure of that?

A. Well, I'm sure that the Inter-Island were finished with the steam winch.

Q. How long before that had they finished discharging cargo?

A. Well, about, I should judge, about eleven o'clock; I think they got through lightening the ship.

Q. Now, then, Captain, it was pulled through that chock, at any rate, by means of the purchase-tackles and the power that was applied to this purchase-tackle?

A. Well, I stood by the chock myself and went to get a [2596—1765] capstan bar.

Q. A what? A. Capstan bar.

Q. Yes.

A. And there was a terrific strain upon the shackle or chock at that time and I took the capstan bar and I knocked upon the shackle. The commander of the "Arcona" was standing right alongside of me and I warned him to keep away from that chock because



(Testimony of J. R. Macaulay.)

he would get hurt. He wouldn't take my advice, however, but remained there. And I kept striking the shackle with the capstan bar and it flew right through the chock and struck the captain of the "Arcona" on his ankle and maimed him.

Q. You were able to bend this two-inch bar sufficiently to get it through the chock?

A. It went through the chock.

Q. You were able to knock it through?

A. I wasn't able, the purchase was able. They pulled it through by mere strength of the purchase.

Q. Was the ship afloat by that time?

A. She was.

Q. Was she afloat by the time that shackle came to the chock? A. She was afloat.

Q. So that the pull that had been made, of forty feet, was all that was necessary to get her afloat?

A. When she went forty feet she was afloat.

Q. By the time she had gone forty feet she was afloat? A. She was afloat.

Q. So that did not interfere in any way with the Miller Salvage Company's not getting her afloat?

A. The momentum of the ship previously to the shackle jamming in the chock was increasing. Even if the shackle hadn't jammed in the chock, with that powerful [2597—1766] purchase I don't think even the Miller Salvage Company's gear would keep up with the momentum of the ship.

Q. The "Intrepid," you say, slowed down and didn't pull so hard after the "Mikahala" arrived; is that correct?

A. That is correct, perfectly correct.

(Testimony of J. R. Macaulay.)

Q. Comparatively correct? A. Yes.

Q. Well, wasn't it correct?

A. It is correct as far as I know.

Q. And the "Mikahala" arrived about what time?

A. I have made no note of the time of the "Mikahala's" arrival.

Q. She arrived before noon on Monday, didn't she—the first Inter-Island boat? A. I believe so.

Q. And got her line on board about an hour before any other?

A. She got her line on board a very few minutes after she arrived, very little delay in her getting her line on board.

Q. As far as you know, do you know any reason for the "Intrepid" letting up on her speed when the "Mikahala" arrived? A. I believe I do.

Q. What's the reason?

A. The tide was falling.

Q. The tide was falling?

A. I think so; and on account of the "Mikahala" coming there I suppose they had an idea that they wouldn't pull so very hard. I believe they were short of water too.

Q. Who was short of water?

A. The "Intrepid."

Q. Oh, that was the reason? A. Perhaps so.

Q. But you also think it was due to the falling tide? A. It may be.

Q. Well, do you think so?

A. When the "Mikahala" [2598—1767] came along and helped the "Intrepid" probably they had an idea it wasn't necessary to pull so hard.

(Testimony of J. R. Macaulay.)

Q. Even though it was high tide at that time?

A. If it was top of high water they certainly would pull for all they could.

Q. Yet they didn't? A. To me it appeared so.

Q. If, as a matter of fact, it was high tide large at eleven o'clock on the morning of Monday, at the time when the "Mikahala" had got her line fast, it wouldn't be by reason of a fall in tide that the "Intrepid" stopped pulling so hard?

A. Oh, when the "Mikahala" got her line fast the "Intrepid" still kept pulling and pulling hard. It was towards the afternoon that the "Intrepid" eased up any after she put a hose on board of the "Mikahala" to get some fresh water. That happened in the afternoon.

Q. Now, if it appears that the high tide was at eleven o'clock would you want to change your testimony?

A. I don't wish my testimony change one iota. I am trying to tell you to the best of my knowledge and belief what is facts. I tell you the fact, the "Mikahala" did arrive, she didn't instantly stop her engines. I don't wish to impress you that way, but she did afterwards slow down after the "Mikahala" had been pulling.

Q. Why didn't you say that at the start instead of saying that when the "Mikahala" arrived the "Intrepid" slowed down? Why didn't you say that she kept on pulling hard until later on in the afternoon?

A. I am trying to answer your question as near as I can and stay within the truth, as near as I can remember. [2599—1768]

(Testimony of J. R. Macaulay.)

Q. Why didn't you so testify at the start that the "Intrepid" kept on pulling after the "Mikahala" arrived, instead of saying that she slowed down when the "Mikahala" arrived? Why did you so testify?

A. After the "Mikahala" did arrive and pull the "Intrepid" was still pulling hard until they found out that they couldn't move the ship, then she slowed down.

Q. That's the reason she slowed down?

A. I can't tell you the reason but they gave her a good, hard pull for a little while.

Q. Why did you say, then, that she stopped pulling so hard when the "Mikahala" arrived, instead of saying that they stopped later on in the afternoon?

A. I didn't say later on in the afternoon.

Q. Didn't you say—

A. I said they finally slowed down. That was my intention.

Q. Why did you say that she slowed down when the "Mikahala" arrived, if, as a matter of fact, you now say that she kept on pulling after the "Mikahala" arrived?

Mr. WARREN.—Object to it as asked and answered.

Mr. OLSON.—Do I understand that the question is allowed?

The COURT.—Yes.

Q. Now, go on. Kindly explain.

A. Now, your question, as I understand it, is why did she slow down after the "Mikahala" arrived.

Q. Certainly. Is that the question?

A. As I understand it.

(Testimony of J. R. Macaulay.)

Q. The question is, why did you say that she slowed down as soon as the "Mikahala" arrived?

A. After the "Mikahala" arrived.

Q. You did not say that? [2600—1769]

A. After, if you please.

Q. Then, Captain, if you said, in the course of giving your testimony, that when the "Mikahala" arrived, the "Intrepid" thereupon slowed down, that is not correct, is that so?

A. In my testimony I believe that I said that after the "Mikahala" arrived that the tug "Intrepid" did slow down or appeared to me so; that she didn't pull as vigorously as she did previous to the "Mikahala's" arrival.

Q. Now, please answer my question. If you did testify that when the "Mikahala" arrived the "Intrepid" slowed down somewhat or didn't pull as vigorously as before that is not correct, that is not correct then, is it? A. That is not correct.

Q. So that if you so testified you made a mistake?

A. I didn't so testify.

Q. If you did so testify that is a mistake.

The COURT.—That has been asked and answered.

Q. If you so testified then you made a mistake, did you? A. As to what?

Q. That when "Mikahala" arrived the "Intrepid" then slowed down and didn't pull vigorously.

A. I did not so testify.

Q. And I'm asking you to state whether or not if you so testified you made a mistake?

A. If I so testified I made a mistake.

Q. That's what I want to know. Do you know a line the "Intrepid" running to the "Celtic Chief"?



(Testimony of J. R. Macaulay.)

A. She had a line appeared to me like about big eight-inch hawser.

Q. And how long was it?

A. Somewhere about a hundred and forty feet.  
[2601—1770]

Q. She was pulling then a hundred and forty feet from the "Celtic Chief," was she? A. About that.

Q. Are you sure of that? A. About that.

Q. And if the fact is that—I withdraw that. If witnesses have testified here that the "Intrepid" was pulling five hundred feet or more away from the "Celtic Chief," then their testimony is not correct; is that so?

A. It might be correct. That is their opinion. I'm entitled to mine.

Q. Your opinion is a hundred and forty.

A. It might be more.

Q. Are you able to judge distances very well?

A. Ordinarily so.

Q. You could judge within forty or fifty feet, could you, if a vessel were two hundred feet away?

A. I would come pretty close to it.

Q. And if she were five hundred feet or more you wouldn't make a mistake as much as three or four hundred yards? A. I might.

Q. Three or four hundred feet?

A. Under certain conditions, yes.

Q. Under conditions prevailing out there at the "Celtic Chief"?

A. At night the conditions were so that you could not judge the distance.

Q. Was the "Intrepid" pulling during the day-time? A. It was.

(Testimony of J. R. Macaulay.)

Q. Could you judge during the daylight, could you judge without making a mistake of three or four hundred feet? [2602—1771] A. I believe so.

Q. And you still maintain that she was pulling at a distance of only a hundred and forty feet?

A. She might have been more, but I say a hundred and forty feet approximately.

Q. What was the length of the line of the "Helene," do you think? A. It's a pretty long line.

Q. How long?

A. It may have been five hundred feet; somewhere about there.

Q. Five hundred feet?

A. May have been six hundred.

Q. May it have been as much as seven hundred? A. No, I don't think so.

Q. Now, the "Mauna Kea" had that same line before the "Helene" took it?

A. Yes, she had the same line.

Q. Was the "Mauna Kea" pulling three or four hundred feet ahead of the "Intrepid"?

A. The "Mauna Kea" was ahead of the "Intrepid" and to the westward of the "Intrepid."

Q. Now, was she pulling three or four feet ahead of the "Intrepid"? A. She may have been.

Q. Was she? A. I can't positively.

Q. How much do you think she was pulling ahead of her?

A. She might have been two hundred feet ahead of her.

Q. How much line do you think the "Likelike" had between her and the "Celtic Chief"?

(Testimony of J. R. Macaulay.)

A. The "Likelike" had a very long line, about the same as the "Helene"; maybe a little shorter.

Q. How long were the lines do you think, of the "Arcona"? [2603—1772]

A. I should judge the "Arcona's" line was somewhere about in the neighborhood of four hundred feet.

Q. Four hundred feet?

A. Somewhere along there.

Q. What was the length of the "Mikahala's" line, do you think, or lines?

A. Between three or four hundred feet, I should judge.

Q. Three or four hundred?

A. Yes, somewhere along there.

Q. Well, might it be as long as four hundred feet?

A. It might have been four hundred feet.

Q. What were the relative positions of the "Mikahala" and the "Arcona" with reference to each other?

A. The "Mikahala" lay to windward, that is, to the eastward of the "Arcona" in a southeasterly direction.

Q. Astern, abreast, or forward of the "Arcona"?

A. Abreast.

Q. Abreast of her. And that was true throughout all of the time that the "Arcona" had lines to the "Celtic Chief"?

A. Yes, they remained in that position.

Q. You would have observed it would you not if the "Arcona" had been so far ahead of the "Mikahala" that her stern had been abreast of the "Mika-

(Testimony of J. R. Macaulay.)

hala's" bow? A. I would.

Q. So that you are positive that they were not in those positions?

A. As near as I can remember, the "Arcona" was a little further to the southward than the "Mikahala" though she was bearing, the "Arcona" was bearing about, I should judge, one point forward of the beam.

Q. Now, answer my question. Read the question.

(Question read.) [2604—1773]

A. The "Arcona's" stern may have been slightly forward of the beam of the "Mikahala."

Q. Take an angle abreast of the "Mikahala's" bridge and the "Arcona's" stern might have been a little forward of that angle and about that position.

Q. But not further than that?

A. A little forward of the bridge, not much more.

Q. Well, how much more?

A. The bearing would be about a point or two forward of the beam of the bridge.

Q. Well, how much more forward in feet?

A. I don't think it could be any more forward.

Q. She would not be forward at that point?

A. Not that I could see.

Q. You observe pretty carefully?

A. That's a matter that's it's hardly possible for a person to tell exactly. That was the way that she looked to me, that the "Arcona's" stern would possibly be about two points forward of the beam of the "Mikahala." That's the way she looked to me.

Q. Then why did you say that they were directly abreast of each other?

(Testimony of J. R. Macaulay.)

A. They were abreast of each other.

Q. You said also a few minutes ago that if her stern had been abreast of her bow you would have observed that.

A. When you come down to a matter of degrees that's a very nice situation. When I say abreast it's a little ahead.

Q. You said you observed that? A. I did.

Q. You so testified, didn't you? A. I did.

[2605—1774]

Q. Well, now, if, as a matter of fact, the point of the "Mikahala's" bow extended to seaward only as far as the very end of the "Arcona's" stern as they lay there attached to the "Celtic Chief," you would have observed that, would you not, also?

A. Well, not exactly. I didn't take the bearings of the positions of those vessels, none of them, neither the "Mikahala" nor the "Arcona," but I'm telling as near as I can from memory her position and I have done so to the best of my ability the position those two vessels were in, I think they were in. I may be wrong in my calculations but that's how it appeared to me at that time.

Q. You have undertaken to say, have you not, Captain, that you think that her stern was lying just about forward of the "Mikahala's" beam?

A. Yes, it appeared so to me.

Q. That wouldn't be the same, would it, if the end of her stern was in line with the foremost point of the "Mikahala's" bow?

A. My diagram will show you distinctly the position I placed the vessels in.



(Testimony of J. R. Macaulay.)

Q. I'm asking you if that is the same, for the "Arcona's" stern to be slight forward of the "Mikahala's" beam, if that is the same as the point west, astern of the stern of the "Arcona," lying in line with the foremost point of the "Mikahala's" bow. Do they mean the same thing?

Mr. WARREN.—I object to the question as unintelligible.

A. This seems to me a new question. It is not similar at all. Read me his question.

(Question read.)

Mr. OLSON.—Now, then, did you understand that? [2606—1775] A. No, I do not.

Q. Captain Macaulay, if the "Arcona" was lying so that the end of her stern was as far seaward as the foremost point of the "Mikahala's" bow, that would not be the same, would it, as if the stern were just a little bit forward of the beam of the "Mikahala"? A. It would not be the same.

Q. Now, then, would you not have observed such to be the case if the "Arcona's" stern had been as far seaward as the foremost point of the "Mikahala's" bow?

A. Not from the position I held on to the "Celtic Chief." It was not possible to observe that position exactly.

Q. You wouldn't be able to testify?

A. Beg pardon?

Q. You wouldn't be able to testify?

A. No, not closely.

Q. When you say, Captain, that the "Arcona" had about four hundred feet of line, do you mean that

(Testimony of J. R. Macaulay.)

that is about the utmost that she had?

A. Somewhere about four hundred feet.

Q. Do you think she might have had as much as six hundred?

A. No, I do not think she was. It was about four hundred feet.

Q. Five hundred?

A. No, I don't even think she was five hundred.

Q. Now, the "Mikahala," you say, had three or four hundred? A. Somewhere about that.

Q. It would be near three or four hundred?

A. The "Mikahala" had about four hundred feet.

Q. Now, as a matter of fact, the "Arcona" was lying as you have described, with the end of her stern [2607—1776] lying practically in line with the foremost point of the "Mikahala's" bow, doesn't it follow that she had a couple of hundred feet more than the "Mikahala"?

A. It would naturally follow.

Q. Then, if the "Mikahala" had four hundred, the "Arcona" had six hundred?

A. Yes, somewhere around there.

Q. Then, you are prepared to say that she did not have six hundred?

A. I'm prepared to say that I think she had.

Q. You told us a few moments ago—

A. I told you to the best of my knowledge and belief that I thought that was the distance from the "Arcona" to the "Celtic Chief."

Q. That was a very favorable bottom, was it not, for the "Celtic Chief" to be grounded on in view of the fact that it was composed of sand and soft coral?

(Testimony of J. R. Macaulay.)

A. No bottom is favorable.

Q. Compared with others.

A. It might have been worse.

Q. Couldn't have been better?

A. It could have been better.

Q. Explain. A. Soft mud would be favorable.

Q. Would sand alone be favorable?

A. Of coral, yes.

Q. Soft coral of the kind you have described?

A. Soft coral sand would be favorable and soft coral. The softer the bottom, the better it would be for the ship.

Q. Do you know, as a matter of fact, that the "Celtic Chief," after having run on the reef, from Sunday night [2608—1777] until Wednesday, midnight, or after, sustained any injury to her bottom?

A. I believe that the "Celtic Chief," after she was rescued from that dangerous position, came off free of any serious accident.

Q. Don't you know the fact to be that the result of the investigation and examination that was made of her, it was shown that she did not have any injury to her hull?

A. I have no knowledge of the surveyor's report on the ship, "Celtic Chief" as to her conditions.

Q. Why, then, do you think that she came off without any serious damage done to her hull?

A. By being on board of the ship from the time she was on the reef and holding her at right angles afterwards with the sea and swell and maintaining

(Testimony of J. R. Macaulay.)

that position, no serious accident to her bottom could occur.

Q. Did you know if she was a single bottom vessel? A. I did not.

Q. Because she wasn't pounding heavily enough?

A. She was pounding pretty heavy.

Q. Why wasn't she likely to suffer damage?

A. Because she took the swell on the back point of her stern, and I was positive there was no serious damage.

Q. And none likely to happen under those conditions?

A. Under the conditions we were at that time, no serious damage was done to the vessel.

Q. None was likely to happen?

A. Yes, there was likely to happen. [2609—1778]

Q. In the position she was lying in?

A. There's no telling how long she would maintain that position.

Q. I'll ask you if she would keep in that position.

A. Sure.

Q. Why did you say that there was no damage in view of the fact that she was gotten in that position?

A. As far as it had occurred. I could not have knowledge of the future.

Q. How do you know that her hull was not damaged?

A. We took soundings roughly in her almost a few inches—

Q. How do you know that her plates might not have been very seriously bent and damaged in that way?

(Testimony of J. R. Macaulay.)

A. Possibly they were, I wouldn't call that serious damage.

Q. You say that smooth spells would come along for as much as an hour or so without swells coming in?

A. There was times when it was pretty smooth.

Q. That was true, was it, of Monday, Tuesday, and Wednesday. A. Right through.

Q. And then two or three swells would come in?

A. Then some big swells would come in.

Q. Then it would be smooth again for an hour or so? A. For a while.

Q. And it would go on in that way?

A. It kept going on in that way.

Q. So that the boats that were lying alongside the "Celtic Chief" were lying in smooth water the major part of the time? A. Part of the time.

Q. Major part? A. No.

Q. If it was smooth for an hour or so, then two or three big swells, then it would be smooth for another [2610—1779] hour or so, isn't it true that most of the time it was comparatively smooth?

A. It depends upon what you would call smooth. You and I may differ.

Q. I'm taking your understanding of it.

A. What I call smooth would be a small swell, that would be smooth. It wouldn't be as smooth as this floor.

Q. Wouldn't you say it would be smooth for an hour or so? A. I did.

Q. Then the boats would be lying in that smooth water for a major part of the time?



(Testimony of J. R. Macaulay.)

A. Part of the time.

Q. If swells were coming in two or three at a time and then it was smooth for an hour or so and then two or three swells and then smooth for an hour or so, and so on, wouldn't it be smooth for a greater part of the time? A. Isn't it natural to suppose—

Q. Answer my question without asking me a question.

A. There were times when the swells were much larger than at other times. They varied. A portion of the time the swells were very small, moderate, then they would increase.

Q. So, at no time was the sea perfectly smooth as it would be within the harbor of Honolulu, for instance? There was, at all times, a swell, but a seafaring man would not call them a great swell or an extraordinary swell, but they varied?

Mr. OLSON.—Move to strike on the ground it is not responsive.

The COURT.—Motion denied. [2611—1780]

The COURT.—Now, Captain Macaulay, answer the question.

Q. It was smoother, as you call smooth a greater part of the time?

A. It was smooth more of the time than it was rough.

Recess.

Q. What do you mean when you say that the swell never exceeded eight feet?

A. I meant that that was the height of the swell at that particular time.

Q. Do you mean that it was over sixteen feet from the extreme height of that swell down to the extreme,

(Testimony of J. R. Macaulay.)

lowest point, of that swell? Sixteen feet from extreme to extreme? A. No, eight feet.

Q. Eight feet from extreme to extreme? That's what you meant? A. That's what I meant.

Q. Then it would be a four-foot mean swell?

A. It would be an eight-foot swell, eight-foot swell.

Q. If it's an eight-foot mean swell, it would be sixteen feet from extreme to extreme?

A. It would not. It would be eight feet.

Q. You don't know what a mean swell is then, an eight-foot mean swell or a four-foot mean swell? You never heard the term four-foot mean swell or ten-foot mean swell?

A. No, I never heard the term before in my life.

Q. It's not a maritime term?

A. I don't believe it is.

Q. You know, do you not, Captain, that when a swell is running there is a trough and also a crest of the swell?

A. The trough has got nothing to do with the swell, as far as I know, the trough of the sea. [2612—1781]

Q. Well, Captain, you take an object carried by that swell or rather take a buoy located at a spot through which that swell runs, do you mean to say that it would be eight feet from the lowest point that that buoy would be to the highest point of the swell? The highest it would be, not the lowest?

A. The buoy, if placed before the swell, it wouldn't be stationary.

Q. It would go up and down somewhat?

A. It would go towards the wave.

Q. Would a boat do the same?

A. A boat would do the same.

(Testimony of J. R. Macaulay.)

Q. So that it would not go up and down?

A. No.

Q. Then these shore boats alongside the "Celtic Chief" did not go up and down?

A. They would surge up and down.

Q. Back and forward?

A. And back toward the wave.

Q. When the swell had gone they would go back?

A. They would go with the swell, back.

Q. Didn't they rise at all with the swell?

A. With the swell?

Q. I want to know how much they would rise with the swell? A. To the height of the swell.

Q. That's eight feet? A. That's eight feet.

Q. From the highest point to the lowest point would be eight feet? A. Approximately so.

Q. And that is the highest swell that you observed at any time on Monday?

A. That was not one of the highest. I took, however, an average height of [2613—1782] the highest swell at that time.

Q. You said, did you not, that that was the highest swell?

A. The highest, the average of the highest swells.

Q. As far as you know, none of them ran higher than that? A. They might have.

Q. Comparatively lower?

A. About eight feet.

Q. And it diminished, did it not, on Tuesday and on Wednesday, diminished, as a matter of fact through Tuesday and Wednesday?

A. Well, the swells varied.

Q. Didn't they become smaller as Tuesday and

(Testimony of J. R. Macaulay.)

Wednesday went along?

A. There was a difference at the different stages of the tide. Naturally the swell would run highest at low water; high water the swells would not run so high.

Q. They would not? A. No.

Q. The swells would run the highest at low water?

A. At low water.

Q. So that, if it was low tide high about daybreak of Monday morning, the swell would be running higher at that time than it would five or six hours later, would it not?

A. It would run highest at high tide naturally.

Q. And I say, if it was high tide low, I mean low tide high, at daybreak of Monday morning, the swell would be running higher, more heavily at that time than five or six hours later, when it was high tide?

A. I don't understand your question.

Mr. WARREN.—I object to the question as unintelligible.

Q. Now, then, Captain Macaulay, I'll withdraw the question, reframe it so that it will read as follows: Suppose, Captain, that at daybreak or thereabouts on [2614—1783] Monday, it was low tide large, isn't it the fact that if there was any difference in the swell from half-past three o'clock on Monday morning on to about noon of Monday, that the largest of those swells would have been coming in at about daybreak; that is, while the low water was prevailing, the low tide was prevailing?

A. I still don't *under* your term or your question. By stating, low tide large, I don't understand that.

Q. You don't know what that means?

(Testimony of J. R. Macaulay.)

A. I don't.

Q. How many low tides are there in twenty-four hours? A. There are two.

Q. Is there any difference between those tides?

A. None whatsoever.

Q. Each of them is equally low?

A. It's about the same.

Q. So that if the extract from the tide tables for 1909, applying to the Harbor of Honolulu and thereabouts, issued by the Department of Commerce and Labor, shows that at five fifty-two on Monday morning the tide was seven-tenths, at eleven o'clock, eleven-tenths, and again at five forty-one in the evening of Monday, nothing, is there any difference between the two low tides, that you have indicated?

A. I don't know of any difference of low tide, but I know of difference in the high tide.

Q. Suppose that we ask the question this way: how many high tides are there during twenty-four hours?

A. There are two.

Q. Is there any difference between those two high tides? A. There is. [2615—1784]

Q. What is the difference?

A. One is lower, higher, than the other.

Q. And as far as you know the two low tides are the same? A. Pretty similar.

Q. If, then, it was low tide at daybreak or about daybreak of Monday, isn't it the fact if there was any difference between the swell that was running between half-past three o'clock until noon of Monday, the greatest of those swells would be about daybreak?

A. It would.

Q. What time was it that the tug "Intrepid" and



(Testimony of J. R. Macaulay.)

the "Huki Huki" made their appearance?

A. I have made no note of the time.

Q. Was it before or after daybreak?

A. It was about daybreak.

Q. And daybreak at that time of the year, in December, would be about what time?

A. About six o'clock.

Q. And they arrived after six o'clock, did they not, then? A. Shortly after six o'clock.

Q. Half an hour or so? A. Possibly.

Q. The "Huki Huki" arrived first, didn't she?

A. She did, the first.

Q. And that was a little after daybreak?

A. That was after daybreak.

Q. How long after the "Huki Huki" arrived did the "Intrepid" arrive? A. Very short time.

Q. Half an hour? A. Possibly so.

Q. So that, if high tide was at five fifty-two, I mean, low tide was at five fifty-two that morning, the ship was getting the largest swells, the largest swells were striking the ship during that period of time just before the "Huki Huki" and the "Intrepid" arrived?

A. There are other reasons why the swell should increase or decrease besides the stage of the tide; that is one [2616—1785] reason why the swell should increase or decrease; an approaching gale sends the swell away more or less—

Mr. OLSON.—I'm perfectly willing to let you go ahead and answer, but I wish to call the Court's attention to the fact that here is just exactly the kind of a question that I have the right to stop.

A. The swells may approach the vessel without a

(Testimony of J. R. Macaulay.)

breath or air or a gale, the effect will be just the same. I've seen swells rolling in there off the reef on the lee side of this Island and without a breath of wind. The tide had nothing to do with those swells coming in there but there was a power behind those swells that we couldn't see. We can see that mostly any day or any week or any month of the year.

Q. Now, then, Captain, you've testified distinctly and without qualification that the tides that were running from half-past three o'clock on Monday morning until daybreak, came as often and as large as during daytime of Monday with this one exception, that during low water the swells would be somewhat larger than during high tide; the swells would be somewhat larger at low tide than at high tide during that period of time. Now, then, Captain, if that is the case, and if low water was at five fifty-two Monday morning, just about day break, isn't it the fact, from the testimony that you have given, that the largest swells that were running at any time from half-past three o'clock until noon of Monday, were during the period of time just preceding the arrival of the "Huki Huki" and the "Intrepid"? Did you understand my question?

A. I partly understand it and I will answer it as near as I can or the best way I can. At that particular time in [2617—1786] the morning, as near as I can remember, there was considerable swell running in and continued to run in, and I believe that the swell did moderate some towards noon, as near as I can remember.

Q. Well, now, answer my question, if, as you say, the highest, that the swell was practically the same

(Testimony of J. R. Macaulay.)

from half-past three o'clock on Monday morning until daytime on Monday with the exception that the swells when they did run in would be somewhat higher at low water or at low tide than at other tides, isn't it necessarily true that at daybreak of Monday, if that was low water, the swells were running highest at that time, as between half past three o'clock and noon of Monday?

Mr. WARREN.—I object to the question, as asked and answered.

The COURT.—I allow the question. Stripped of all its introduction and so on, the question is, wasn't the highest swell between half-past three and noon of Monday at daybreak, when the tide was lowest? Isn't that it?

Mr. OLSON.—Yes. I say, isn't it the necessary conclusion from his prior testimony?

A. I believe the swell was highest at low water.

Q. When was low water according to the tide tables?

A. I don't know anything about that tide table.

Q. If that is an extract from the tide table made by the Coast and Geodetic Survey, you wouldn't take it?

A. I wouldn't take that table as far as height of the tide—

Q. As a navigator you would not assume as true the record of the tide tables published by the Department of Commerce and Labor? [2618—1787]

A. The tide tables of the Hawaiian Island of the past are known. There are no regular tides in the Hawaiian Island. They vary. The tides in the vicin-

(Testimony of J. R. Macaulay.)

ity of the Hawaiian Islands are governed a great deal by the wind.

Q. By the what? A. By the wind.

Q. They are? A. They are.

Q. And not by the moon?

A. And the moon also. I've known it to be flood tide for twenty-four hours with a southerly gale.

Q. Would that be flood tide or would not that be a heavy sea?

A. That would be a tide caused by the force of the wind.

Q. But there was no heavy gale at this time?

A. On this particular day there was no heavy gale, but my reason for saying this is to show that that table will only show you tides that have past.

Q. You know, do you not, Captain, that the moon governs the tides which can be fixed with absolute certainty? A. Not in the Hawaiian Islands.

Q. You mean to say that the moon does not exercise that influence in the Hawaiian Islands?

A. It has a certain influence.

Q. And unless there is something else, such as a gale, that is piling up the water, the moon will govern the tide, will it not, and distinctly influence it, which can be mathematically calculated?

A. No, it is not influenced. There are other agencies at work that control the tides besides the moon.

Q. What are they? A. Current.

Q. This current that runs along the reef, as you have described it in your diagram, did that current run in [2619—1788] an extraordinary way during the time that the "Celtic Chief" was on the reef?



(Testimony of J. R. Macaulay.)

A. No, it didn't.

Q. So that, as far as that is concerned, it didn't alter the time when high tide was due to arrive at this occasion?

A. It certainly did have its effect.

Q. What other influence?

A. I gave all that's sufficient.

Q. Anything else?

A. I can't think of anything at the present time.

Q. Was there any gale as far as you know?

A. No.

Q. At or near that time?

A. There might have been a gale a couple of miles from there but not in the vicinity of the "Celtic Chief."

Q. And, as far as you know, the current was running in the ordinary way that day; is not that correct? A. It was running in the ordinary way.

Q. That being so, don't you know it to be the fact that the tide must have arrived at the time fixed in this table because the moon did exercise the influence of the tide?

A. No, I don't agree with you on that point at all.

Q. Do you remember what time it was low water on Monday? A. I do not.

Q. Well, then, if it was low water at daybreak on Monday, isn't it the fact that that is the time that the highest swells were running, between half-past three o'clock and twelve o'clock?

A. Naturally so.

Q. Well, it's so, isn't it?

A. Naturally so; yes.

Q. And that's when the swell was striking the



(Testimony of J. R. Macaulay.)

“Celtic Chief” the hardest, during that period of time, then, [2620—1789] if the facts I assume are true?

A. The swells were striking her at that time when the, when she was angled on to the reef. They had, certainly, more force upon the ship than they had in the forenoon.

Q. Well, can't you answer my question, that's when the swells were striking the hardest, when the swells were the largest? A. Sure.

Q. And at that time she had her bow anchored by means of her starboard bow anchor?

A. Starboard bow anchor was down; yes.

Q. So that the only part of the ship which could move in shore with the swell, was her stern; isn't that so? A. Oh, no, that's not so.

Q. What else? A. The whole ship moved.

Q. Her anchor didn't hold?

A. Well, there was a short chain on that starboard anchor.

Q. It didn't hold? A. It may not have held.

Q. Did it? A. I am not positive.

Q. It might have held? A. It might.

Q. You don't know whether or not the ship moved?

A. The ship was never stationary until she pulled her last position.

Q. But her stern didn't move to westward?

A. Her stern followed her bow.

Q. Did it move to westward?

A. No, I don't believe it did.

Q. Notwithstanding the fact that that was the

(Testimony of J. R. Macaulay.)

time that the swell was striking her the heaviest, between half-past three in the morning, Monday, and during Monday on her starboard quarter.

A. The fact of her stern not moving so much as her bow would indicate that she was dragging her starboard anchor.

Q. Answer my question. Her stern did not move to [2621—1790] westward, notwithstanding the fact that the swell was striking her the heaviest then of all the time between half-past three and noon of Monday.

Mr. WARREN.—Object to the question as asked and answered.

The COURT.—I allow the question.

Q. Answer the question, Captain.

A. What is the question?

(Question read.)

A. The stern did move. It had an up and down motion. It would strike the reef occasionally, but I don't believe the stern did move an appreciable distance to the westward.

Q. If the highest swell that was running at any time during the time that the "Celtic Chief" was ashore was eight feet, so that a boat lying in that swell would rise and fall the distance of eight feet at the greatest, then it follows, does it not, that the shore boats of the Inter-Island Steam Navigation Company that were working alongside of the "Celtic Chief" receiving cargo, at no time rose or fell more than eight feet in the swell?

A. That is a natural conclusion.

Q. Now, then, I want to ask you if it isn't still the

(Testimony of J. R. Macaulay.)

fact, if it isn't the fact that the swell that was running on *Tuesday was less than on Tuesday* and that the swell that was running on Wednesday was less than upon Tuesday or Monday? A. I don't remember.

Q. You don't know? A. I don't remember.

Q. When the "Mauna Kea" first broke her line, will you state the manoeuver which resulted in the breaking or parting of that line? Describe the manoeuver. [2622—1791]

A. The "Mauna Kea," directly after her arrival, ran a messenger line to the "Celtic Chief" and we hove on board a twelve-inch hawser. We parceled the mizzenmast, and got it ready to make fast that hawser to the mizzenmast. We took two or three round turns round the mizzenmast and took half hitches, if I remember correctly.

Q. I'm asking you to describe the manoeuver. Assume that she had the line already on, now describe the manoeuver.

A. Well, when the line was fast the "Mauna Kea" steamed ahead and strained at that hawser and pull a steady strain and parted that line near the "Celtic Chief's" port quarter chock.

Q. And you said on direct, did you not, that the "Mauna Kea" strained at her line so hard that it broke? A. I state so still.

Q. So that the breaking or parting of the line was almost coincident with the straightening out of the line or followed immediately upon the straightening out of the line; is that correct?

A. It is not correct.

Q. All right, what is correct?

(Testimony of J. R. Macaulay.)

A. It's correct that she parted that line by a steady pull the first time she parted the line.

Q. How long had she been pulling before the line parted after she had gotten her line straight?

A. A very short time.

Q. Very short time? A. Very short time.

Q. Let's have it in seconds, minutes, or hours.

A. Possibly an hour.

Q. And that's what you regard as a short time?

A. It is a short time. [2623—1792]

Q. And she had kept that line straight out of the water during that whole hour?

A. No, she didn't.

Q. Well, what was the condition of her line then, with reference to being straight or not straight?

A. When the swell would take the "Mauna Kea," naturally, the hawser would sag a little, it wasn't straight.

Q. She would surge forward and then she would surge backward.

A. When the swell would heave the "Mauna Kea," it wouldn't be straightened out.

Q. The "Mauna Kea," with the swell, would surge backward with the swell and the line would droop in the water? A. Just sag a little.

Q. It was out of the water for what time?

A. I don't remember.

Q. Do you know what the size of that wire was?

A. Twelve-inch hawser, brand new.

Q. Do you know the length of the line before she broke the line the first time?

A. Supposed to be a hundred and twenty fathoms.

(Testimony of J. R. Macaulay.)

Q. How many feet?      A. Multiply by six.

Q. Seven hundred and twenty, is that correct, allowing, of course some for making fast on the "Mauna Kea" and some for making fast on the "Celtic Chief"?

A. That's about the length of the hawser.

Q. And you don't know whether or not the dip of that line dipped down in the water?

A. I do know.

Q. It did?      A. Yes.

Q. Why didn't you answer the question?

A. Because you didn't ask me the question, that I remember.

Q. So it did dip down in the water during that period [2624—1793] of time?

Mr. WARREN.—Object to the question as asked and answered.

The COURT.—I allow the question.

Mr. OLSON.—Answer the question, Captain Macaulay.

A. During the period of—

Q. Do you know what the last question is?

A. About the line sagging.

Mr. OLSON.—Read the question to him so that he understands clearly.

(Question read.)

Mr. OLSON.—Answer it.

A. Is that a question?

Q. Yes. So it did dip down in the water during that period of that? I'm speaking now of the "Mauna Kea's" hawser.

A. I can't understand that as a question.



(Testimony of J. R. Macaulay.)

Q. You don't know what I mean when I ask you if the line dipped down in the water?

A. The question as I heard it read by the stenographer says, and it did dip down.

Q. So the line of the "Mauna," during the hour preceding the parting of her line the first time, did sag down into the water at times; is that correct?

A. Yes.

Q. Now, then, Captain, the sag was due to the fact, was it not, that when the swells would come in, the "Mauna Kea" would surge backward with the swell, permitting the sag to drop down into the water and then she would come forward and bring it out of the water and so on? A. That wasn't the cause.

Q. What was the cause?

A. The "Mauna Kea" didn't sag back; she rose and fell with the swell. [2625—1794]

Q. And when there was no swelling running the line was out of the water all of the time?

A. Straight out of the water.

Q. All of the time? A. Heavy strain on it.

Q. Do you know what proportion of that time during that hour there was no swell running?

A. I believe that question was answered this forenoon.

Q. It was not? A. A major portion of the time.

Q. A major portion of the time there was no swell?

A. No swell.

Q. And during the major portion of the hour the line was straight out of the water?

A. Straight, taut.

Q. Do you know where the "Mauna Kea's" an-

(Testimony of J. R. Macaulay.)

chor was laid? A. I have an idea.

Q. Where?

A. A little to the southward and eastward to the line of the ship's keel.

Q. Somewhat angling off of her?

A. Port bow.

Q. Port bow? A. Exactly.

Q. So that, in order to prevent the line from sagging, the "Mauna Kea" would be obliged to keep it out of the water straight like that, by means of her propeller?

A. Yes, naturally.

Q. That's so. And you believe, do you, that a steamer like the "Mauna Kea" is, was able to keep a twelve-inch manilla hawser, about seven hundred feet in length, straight out of the water for ten, fifteen, or twenty minutes or one hour at a time, by means of her propeller pulling?

A. I don't believe that it was seven hundred feet from the "Mauna Kea" to the "Celtic Chief."  
[2626—1795]

Q. What was the distance?

A. It was between five and six hundred, I think, as near as I can judge.

Q. All right. Then, I'll limit my question to a five or six hundred foot hawser. You think that a steamer like the "Mauna Kea" could keep a twelve-inch manilla hawser, about five or six hundred feet in length, straight out of the water for ten or fifteen minutes by means of her propeller?

A. I do, in smooth water.

Q. You think that the "Mauna Kea" could main-

(Testimony of J. R. Macaulay.)

tain her position so well that that line would not sag into the water at all for ten or fifteen minutes?

A. It would sag with the motion of the ocean.

Q. But there was no running of the sea?

A. There was. The ocean is never without a motion.

Q. But not sufficiently to permit it to sag in the water?

A. It would sag, necessarily, with the up and down motion of the ship because of the motion of the sea.

Q. But was the distance above the water line to the point where the "Mauna Kea's" line went aboard the "Celtic Chief," if not in exact figures, give it to me approximately?

A. The angle from the "Celtic Chief" would start, say this is approximately about nineteen feet above the water.

Q. Nineteen feet?

A. Somewhere about nineteen feet to where the hawser was, from the rail of the "Celtic Chief."

Q. Where did the line come from, of the "Mauna Kea"—from what part of the "Mauna Kea"?

A. From her stern.

Q. How high is that part of the stern above the water line? If not in exact figures give it to me [2627—1796] approximately, as she lay pulling there that day.

A. It may have been somewhere about eight or ten feet above the water line, say.

Q. How much?

A. Eight or ten feet above the water line.

Q. Eight or ten feet?

A. Somewhere around there.

(Testimony of J. R. Macaulay.)

Q. You are sure it wasn't higher than that?

A. I'm not sure.

Q. You know the "Mauna Kea" pretty well.

A. I know her by sight.

Q. Been aboard her?

A. I have been aboard her.

Q. Don't you know that her stern lies higher than eight or ten feet?

A. Yes, but the pipe where the hawser ran through was not as high as the stern.

Q. It was as high as the deck?

A. The "Mauna Kea" has got different decks.

Q. Which deck did this line run on to?

A. Main deck.

Q. How high is that out of the water, that point?

A. About eight feet.

Q. Not more than that?

A. I don't believe it's much more.

Q. Less.

A. Well, eight feet is about as close as I can come to it.

Q. Now, then, if that line was straight out of the water for ten or fifteen minutes or even possibly thirty minutes at a time during that hour, that would be during the times that there were no eight-foot swells, wouldn't it?

A. If it continued straight, do you mean.

Q. Well, I withdraw the question and put it in a different way. If the line was straight from the stern of the "Mauna Kea" to the stern of the "Celtic Chief" and [2628—1797] there were no swells running over eight feet high, the only point at which

(Testimony of J. R. Macaulay.)

that line would touch the water would be at the stern of the "Mauna Kea," would it not?

A. No, not necessarily so.

Q. Why not?

A. Supposing the eight-foot swell would strike the stern of the "Mauna Kea."

Q. Yes.

A. It would, naturally, raise the stern of the "Mauna Kea."

Q. Yes, would the line be in the water during that period of time?

A. That swell would continue on its course and would touch the hawser in close proximity to the "Mauna Kea."

Q. Yes.

A. But it would have less chance of touching the hawser as it approached the "Celtic Chief."

Q. I see. But at periods of time that towing line was practically straight whether there was any swell or not?

A. There was a perfect strain on that line.

Q. Answer my question.

A. Practically straight.

Q. No sag in it at all?

A. There was sag in it.

Q. When?

A. When the swell would strike the "Mauna Kea."

Q. Doesn't that mean that the "Mauna Kea" must have necessarily come nearer to the "Celtic Chief" in order to permit it to sag?

A. No not necessarily so.

Q. How could there be any sagging without a short-



(Testimony of J. R. Macaulay.)

ening of the distance of the two points?

A. The rise and fall of the "Mauna Kea."

Q. How could there be any sag in the line, I ask you, without any shortening of the distance between the two points? Isn't it necessary for those two points to approach each other?

A. It might be possible. [2629—1798]

Q. Then the "Mauna Kea" must have been carried nearer to the "Celtic Chief," a trifle, at least, by the swell? A. Possibly so.

Q. Isn't it quite possible, therefore, that it was just after one of those swells, when she had surged forward again, amounting practically to a jump, that she broke that line at the time it parted the first time?

A. The swell may have had part in the hawser breaking.

Q. You haven't answered my question.

Mr. WARREN.—I want my objection on the record.

Q. Answer the question, Captain.

A. What is the question?

(Question read.)

Q. Did you understand the question?

A. Thoroughly.

Q. Now answer it.

A. It may have been due to the effects of that swell by causing the "Mauna Kea" to surge ahead, that the hawser broke.

Q. How much of that line was broken, approximately, in feet?

A. I should judge there was about at least sixty feet of that line broken off.

(Testimony of J. R. Macaulay.)

Q. Was that spliced together again?

A. Not to my knowledge.

Q. So the broken end, then, of the part which dropped into the water, was then attached again to the "Celtic Chief," was it?

A. Yes, the same end was made fast.

Q. You didn't use the part that had been broken off at all after that? A. Not afterwards, no.

Q. And that was the line that the "Helene" used afterwards? A. The same line.

Q. And that line was about seven hundred and twenty feet [2630—1799] in length before it broke, then after it broke it must have been about six hundred and sixty feet long. That's correct, isn't it, Captain? A. Pretty nearly right.

Q. How much of that was used in making it fast again in the "Celtic Chief"? Sixty feet more from the ship? A. Oh, no.

Q. How much?

A. Just the turns around the mizzenmast and the half hitches.

Q. How much more of the line was it to the mast?

A. I've just answered you that question.

Q. I'm just asking you how many feet approximately. A. Feet?

Q. How much? A. What did you say, feet?

Q. Yes.

A. Where the line broke? Do you mean where the line broke?

Q. How many feet from the point where the line passed through the chock into the "Celtic Chief" to the end of the line after it was made fast the second

(Testimony of J. R. Macaulay.)

time? Wasn't it about the length of the broken piece, the piece broken off, about sixty feet?

A. It was; the second time that that line was made fast, it was made fast somewhat similar to the first time.

Q. So it would be about sixty feet?

A. About sixty feet. About the same. There was a little difference at the mizzenmast, but very little difference. It might have been a fathom or two.

Q. That would leave about six hundred feet of line from the chock of the "Celtic Chief" to the end of the line that was put on board the "Mauna Kea" and was afterwards transferred to the "Helene"?

A. About six hundred, yes.

Q. Have you ever had any experience with towing' steamers [2631—1800] towing on a fixed object so as to be able to form any judgment how long a line or what size of a line a steamer with a given horsepower is able to keep out of the water in a straight line?

A. No, I never had no experience in towing upon a fixed object.

Q. So you don't know whether it was extraordinary for the "Mauna Kea" to keep that line straight out of the water as you have said?

A. I noticed that she was a very powerful boat and it surprised me to see that she was able to break that twelve-inch hawser.

Q. You don't know the horse-power of the "Mauna Kea," do you?

A. No, I don't know her horse-power.

Q. I think you said that if the "Celtic Chief" had

(Testimony of J. R. Macaulay.)

gone broadside on the reef there, she would have been bilged and her bottom pierced by the coral. You said that, didn't you?

A. I said so and I believe so still.

Q. Notwithstanding the fact that that coral was this soft, mushy coral which would give so easily, as you have testified?

A. The coral doesn't give so easily as all that. There is a certain limit to its softness.

Q. Do you still persist in saying that the coral would be able to form enough resistance on the port side of the "Celtic Chief," enough to prevent the swell that was running from throwing her broadside on?

A. It is my belief if she had gone broadside and her bilges had touched on that reef that it would have forced her bottom.

Q. Answer my question.

A. What is the question? [2632—1801]

(Question read.)

A. I do.

Q. The coral was so soft that it would have given in front of that keel or on the side of that keel, but, nevertheless, hard enough to pierce her if she had gone broadside over against that reef?

A. The coral was softer than the keel was, and, naturally, the softer body would have to give away to the harder body.

Q. Would it have to give way before a swell of the kind that was running on Monday, Tuesday, and Wednesday? A. It surely would.

Q. And that coral, which would have given before

(Testimony of J. R. Macaulay.)

that swell, was hard enough to have pierced the "Celtic Chief's" plates? A. It certainly was.

Q. Now, she was broadside up against the reef early in the evening, that is, Sunday evening?

A. For a short period of time.

Q. Did she pierce her bottom at any time? Did she ever bilge? A. Not at that particular time.

Q. She might have got in the same position again without getting bilged? A. She might.

Q. In the position that the "Mikahala" was pulling on Wednesday afternoon, about how many feet would you say to the eastward of the "Intrepid," while she was there, and thereafter the "Arcona," was she?

A. The "Mikahala," as near as I can remember, was distant from the "Arcona" in the neighborhood of say, one hundred and forty feet or so.

Q. One hundred and forty feet?

A. Somewhere around there.

Q. About?

A. May be more or less, [2633—1802] but somewhere about that distance.

Q. A little more than a third of the distance between the stern of the "Mikahala" and the stern of the "Celtic Chief"? A. About that.

Q. A little more than a third?

A. About that.

Q. Did the "Mikahala" change her position until Wednesday night? A. Wednesday night?

Q. Yes. A. No, not that I know of.

Q. Where were you at the time the "Mikahala" put her line on board the "Celtic Chief"?



(Testimony of J. R. Macaulay.)

A. I was on the poop of the "Celtic Chief."

Q. What were you doing there?

A. Just looking around and taking in the situation generally, advising the master of the ship to the best of my ability.

Q. Did you see the spot where the "Mikahala's" anchor was dropped?      A. I did.

Q. You did?      A. I saw her drop her anchor.

Q. And that was not dropped by the "Mikahala" in the position that she assumed after she got her lines on the "Celtic Chief" and got it taut?

A. As near as I could see it was not from the line of the keel of the "Mikahala."

Q. Do you know Captain Piltz, who was first officer of the "Mikahala" at that time?

A. I believe I do.

Q. You do know him, don't you?

A. I know him by sight; I'm not intimately acquainted with the gentleman.

Q. You know that he was the first officer of the "Mikahala" at that time?

A. No, I don't. I don't know who was first officer of the "Mikahala."

Q. Did the "Mikahala" pull over to eastward on [2634—1803] Wednesday night about a half an hour or so before the "Celtic Chief" came off?

A. Not that I can recollect.

Q. Would you have noticed it if she had?

A. I might and I might not. She might have moved without my knowing it.

Q. Now, if, as a matter of fact, Captain Piltz was the first officer of the "Mikahala" and Captain Piltz

(Testimony of J. R. Macaulay.)

has testified in this case, that the anchor of the "Mikahala" lay at an angle to seaward off the port bow of the "Mikahala" and that it was only about half an hour before the "Celtic Chief" floated that the "Mikahala" got in line, direct line between the "Celtic" and that anchor, are you prepared to say that that is not correct?

A. Half an hour before the "Celtic Chief" floated it was *pretty midnight*, impossible for a person to see on the "Celtic Chief" what was on board the "Mikahala."

Q. Well, if Captain Piltz, who was the first officer of the "Mikahala," has testified that her anchor was not laid directly ahead of her, but at an angle off her port bow and that was the position it was in throughout all the day until about half an hour before the "Celtic Chief" came off, are you prepared to say that that is not true?

A. If the chief officer of the "Mikahala," who was on board of the "Mikahala" and laid the anchor, says that the anchor was laid at an angle on her port bow, I would take that to be correct. Nevertheless, from what I noticed myself personally, it looked to me as if the anchor of the "Mikahala" was right in line with her keel off in a southerly direction.

Q. Isn't it quite possible after her anchor was laid that the "Mikahala" was carried further to the westward, that is, farther toward the position of the "Intrepid" so that her anchor could be on the port bow to the westward? [2635—1804]

A. If the "Mikahala" had a strain on her anchor chain and was pulling on her hawser, it is not possi-

(Testimony of J. R. Macaulay.)

ble that she would move much.

Q. Would she move any to the westward?

A. She would naturally incline to the westward.

Q. Now, then, Captain, you say that the "Arcona's" anchor was dropped directly ahead of the "Mikahala"?

A. The first time that the "Arcona"—

Q. The second time.

A. The second time the "Arcona" dropped anchor a little bit to the eastward of the line of the "Mikahala."

Q. A little eastward? A. To the eastward.

Q. *Well, were* you standing when that was dropped?

A. Right on the poop, on the starboard quarter.

Q. Was it dropped so far to eastward that you could see around the side of the "Mikahala"?

A. It was dropped a long way outside the "Mikahala."

Q. You didn't see around the "Mikahala"?

A. I saw the "Mikahala."

Q. Did you see around the side of it or did you see over it? A. "Mikahala"?

Q. Yes.

A. I could see the port side of the "Mikahala."

Q. Did you see the place where the anchor was dropped over the "Mikahala"?

A. It wasn't dropped over the "Mikahala"; it was dropped ahead.

Q. I'm asking you if you saw over the "Mikahala" to the place where the anchor was dropped.

A. I could see over the "Mikahala." [2636—1805]

(Testimony of J. R. Macaulay.)

Q. And you did see over the "Mikahala" to the place where the anchor was dropped?

A. I saw where the anchor was dropped.

Q. Did you look over the "Mikahala" and thus were you able to see the spot?

A. It wasn't necessary to look over the "Mikahala."

Q. How were you able to see it if you looked any other way but over it?

A. I looked ahead of the "Mikahala."

Q. How were you able to see it if the "Mikahala" was between you and the spot where the spot where the anchor was dropped?

A. She was not between.

Q. To which side was she?      A. To the eastward.

Q. How was the anchor dropped to the east of the "Mikahala" if that is so?

A. I believe that that diagram will show.

Q. Tell us why.

A. I can't show the exact position of the "Mikahala" and position of the "Arcona."

Q. Now, Captain, I'll call your attention to your diagram marked Libellant's Exhibit "G" and ask you to look at the "Arcona's" anchor marked B, showing its second position, and ask you to look also at the "Mikahala" and at the "Celtic Chief." Now, tell me how it was possible for you standing on the poop, to see the anchor ahead if the anchor was in that position.

A. I was standing right there on the "Celtic Chief" then.

Q. On the port side?

(Testimony of J. R. Macaulay.)

A. On the starboard of the "Celtic Chief." I saw the "Arcona" drop her anchor right about here.

Q. I'm not asking you about the first time.

A. I want to answer your question in detail. The "Arcona" dropped her anchor there.

Mr. WARREN.—Position A?

A. Position A; then she came and she dropped her anchor here. [2637—1806]

Mr. WARREN.—Position B.

A. Position B. I could see that distinctly from the poop deck of the "Helene."

Q. Wasn't the "Arcona" in line between those two points, the point where you stood and the point B, the place where you say the anchor was dropped?

A. Practically so.

Q. How were you able to see?

A. I looked over the "Mikahala" and to the southward of the "Mikahala."

Q. So you did look over the "Mikahala"?

A. Partly so.

Q. Did you look around her also?

A. I looked on the starboard side.

Q. Didn't you say her anchor was laid to the eastward? A. I say so still.

Q. And yet you were able to see that spot on the starboard side of the "Mikahala" while you were standing on the "Celtic Chief"?

A. That was the port side.

Q. You said you couldn't see the port side. How else did you see that spot if not entirely over?

A. Partly over.

Q. How else did you see it if not entirely over?



(Testimony of J. R. Macaulay.)

A. That line was practically forward of the pilot-house of the "Mikahala," the top of that was much lower and at a certain angle to where the "Arcona" steamed ahead here to the southward and eastward and dropped her anchor and I saw the splash of the water when she dropped her anchor.

Q. How else could you see if not over?

A. Over the bow of the "Mikahala."

Q. Then you were looking over the "Mikahala"?

A. Over the bow.

Q. And you were not looking around?

A. Right to the south. [2638—1807]

Q. And you were not looking around?

A. It was across.

Q. So that the way you were able to see that was over the "Mikahala"?

A. Over the bow of the "Mikahala."

Q. Now, then, do you mean to say that you not only looked over the bow of the "Mikahala" and that you were not obliged to look over the superstructure?

A. This is an approximate position.

Q. This is not a correct position?

A. I told you so when that diagram was drawn. It's understood that that was an approximate position.

Q. Well, the "Arcona" was pulling stern out to sea? A. I believe she was.

Q. And if the anchor was laid a trifle to the east of the "Mikahala" and you were standing on the star-board quarter of the "Celtic Chief," can you explain how you were able to see that without looking over

(Testimony of J. R. Macaulay.)

the entire port of the "Mikahala"?

A. I've been trying to explain it to you for this last half hour.

Q. How high out of the water does the "Mikahala"—I'll withdraw that. How high did she lie out of the water that day?

A. The hull of the "Mikahala" would be, might have been eight or ten feet out of the water.

Q. How high were you at the point where you were?

A. About twenty feet above the level of the sea.

Q. And now, how far was it from you to the "Mikahala"?

A. It was about three or four hundred feet.

Q. How far ahead of the "Mikahala" was it that the "Arcona's" anchor was dropped?

A. Five or six hundred feet, I suppose.

Q. Didn't you say four hundred feet while you were testifying on direct?

A. What, the anchor?

Q. Yes.

A. Might have been 400. [2639—1808]

Q. That's what you testified?

A. If I testified so I guess it's pretty near the truth.

Q. Which is correct, five or six hundred feet or four hundred feet?

A. I couldn't exactly say. It might have been four or five.

Q. Or six? A. It might have been.

Q. Eight hundred? A. No.

Q. Seven hundred?

(Testimony of J. R. Macaulay.)

A. Seven hundred. I don't think it could have been.

Q. Six hundred and fifty? Yes or no.

A. Well, it might have been six hundred and fifty or it might have been four hundred.

Q. Why did you say on direct that it was four hundred?

A. I didn't say on direct that it was four hundred. I said to the best of my knowledge it looked to me in the neighborhood of four hundred or five hundred feet.

Q. Is that what you said on direct, it might be four or five hundred feet? A. I don't remember.

Q. The truth of the matter is, it might be four, five, or six, or six hundred and fifty feet?

A. It might have been five hundred.

Q. Is it possible that you are just as greatly mistaken about the distance of the "Mikahala" from the "Celtic Chief"? A. No.

Q. It is not? A. No.

Q. She was not more than four hundred feet away?

A. The distance from the different vessels I could judge better than the distance from the "Celtic Chief" in a southerly, easterly, or a southwesterly direct. It is more easily ascertained, the distance broadside, a broadside view than a distance right off from you.

Q. The "Mikahala" is about two hundred feet long.

A. I don't know, I never measured the "Mikahala."

(Testimony of J. R. Macaulay.)

Q. You know the ship when you see her?  
[2640—1809] A. I know her.

Q. What is her length? A. I have no idea.

Q. Fifty feet? A. Oh, yes.

Q. One hundred and fifty?

A. Somewhere around there.

Q. Possibly two hundred?

A. She may be two hundred.

Q. That means six hundred feet from her bow to the "Celtic Chief," doesn't it? That's six hundred feet from the bow of the "Mikahala" to the stern of the "Celtic Chief" where you were standing?

A. About that.

Q. And it was over four or five hundred feet, according to your best judgment, to the place where the anchor was laid from the bow of the "Mikahala."

Q. Now, then, you said the "Mikahala" lay eight or nine feet out of the water?

A. Somewhere around there.

Q. What do you mean, lying that distance out of the water to the rail? A. To the rail.

Q. She has some superstructure? A. She has.

Q. How far forward does that run?

A. About a little more than half the length of the vessel.

Q. Now, at the angle that she was lying according to the diagram, as you have drawn it here, Captain you have practically a view along the length of the "Mikahala," don't you, while you were looking at that anchor?

A. Yes, sir, I could see along the length of the "Mikahala."

(Testimony of J. R. Macaulay.)

Q. She was not angling to you, was she?

A. A little bit.

Q. To your position?

A. She was, a little bit.

Q. Even though the anchor was lying a trifle to eastward of the "Mikahala"?

A. She was at a different angle to what we were lying in the "Celtic Chief."

Q. Wasn't she lying practically right in line between you and that anchor, the anchor of the "Arcona"? Isn't that your testimony?

A. She was lying pretty [2641—1810] near according to this diagram.

Q. Isn't it so according to the fact?

A. That's about as near as I could place any of those vessels.

Q. Isn't that the fact as it was?

A. This diagram?

Q. Yes, I'm asking you if this diagram doesn't delineate the situation as it was the time the anchor was dropped? A. That's about right.

Q. How high above the hull does this superstructure rise on the "Mikahala"?

A. About six feet.

Q. So, then, if you had to look over the superstructure of the "Mikahala" you had to look over fourteen feet?

A. I didn't have to look over the superstructure of the "Mikahala."

Q. I'm asking you, if you had to?

A. About that, yes.

Q. Well, the "Mikahala" lay, according to your



(Testimony of J. R. Macaulay.)

diagram, pointing toward the spot where the anchor was dropped, her stern being in direct line between her bow, in direct line with the anchor and bow with reference to you. That's correct, isn't it?

A. Pretty near correct.

Q. You were looking along the length of the vessel when you saw the anchor dropped.

A. I was looking partly over the bow of the "Mikahala" and to the southward and eastward of the "Mikahala," ahead of the "Arcona." My particular attention was drawn towards the "Arcona's" movements and the "Mikahala's" both and I watched the movements of the "Arcona" before she let go her port anchor.

Q. Then the "Mikahala" must have been lying a trifle more to an angle, her bow passing more to eastward than this diagram shows?

A. There may have been a difference. That is not correct but it is as near as I can come to it. [2642—1811]

Q. I'm asking you if it isn't necessary for her bow to point more to eastward for you to look to the southward? A. No, not necessary.

Q. Then you could stand here on the starboard quarter on the poop of the "Celtic Chief," look over the "Mikahala" to the point where the anchor was laid by looking over the superstructure. That's possible, is it, according to this diagram?

A. I don't believe it was necessary to look over the "Mikahala's" superstructure to see the splash of that anchor.

Q. If you went to draw a line, Captain, from your

(Testimony of J. R. Macaulay.)

eyes as you stood on the "Celtic Chief" making that observation over the bow of the "Mikahala," allowing eight or nine feet out of the water, to the spot where the anchor was dropped by the "Arcona," do you think it would be possible for that line to maintain a straight course from your eyes to that ship?

A. It would not be possible.

Q. The bow would disturb it, wouldn't it?

A. The bow would disturb it.

Q. Therefore, to see the place where the anchor was would not be possible except over the superstructure?

A. No.

Q. You didn't see the spot you only saw the splash?

A. The splash.

Q. How do you know that would be the spot where the anchor was dropped?

A. By seeing the splash. There may have been other reasons for that splash but I took it to be from that anchor.

Q. That's the only reason you have for assuming it was? A. That's the only reason.

Q. But it might have been something else as far as you are concerned? A. I don't believe it was.

Q. It might have been?

A. It might have been, yes.

Q. What did the "Intrepid" do when it was ordered to let go [2643—1812] its line and make place for the "Arcona"?

A. She was—the "Intrepid" was ordered on more than one occasion to let go. After being ordered the first time, she didn't heed the order—kept on pulling.

Q. Did they make any reply?

(Testimony of J. R. Macaulay.)

A. No reply so far as I know.

Q. Then what else did she do then? What else?

A. There was a written order sent to the "Intrepid."

Q. What is that?

A. A written order or letter sent to the "Intrepid," requesting that he would let go his line and make room for the "Arcona," a more powerful ship.

Q. And what did the master of the "Intrepid" do in response to that letter?

A. He didn't heed the request.

Q. Did he do anything? A. No.

Q. Wasn't he hailed also from the "Celtic Chief"?

A. Afterwards he was hailed from the "Celtic Chief."

Q. By whom? A. By the master.

Q. And what response did they make from the "Intrepid"? A. I really forget.

Q. They made a response though didn't they?

A. I believe there was some response, but I forget.

Q. Was the response that they wouldn't let go?

A. There was some words, but I forget.

Q. Don't you know as a matter of fact?

A. No, I don't remember. I remember the master of the "Celtic Chief" hailing the "Intrepid" three times. What the response was from the "Intrepid" I really forget.

Q. But you know that notwithstanding the fact that all these notices were given to the "Intrepid," the "Intrepid" nevertheless did not let go?

A. No, she didn't let go.

(Testimony of J. R. Macaulay.)

Q. What happened then?

A. The master of the "Celtic Chief" ordered the chief officer to cut his line.

Mr. OLSON.—With the consent of counsel I ask that the depositions of J. Henry, J. Lowry, Albert F. Pillsbury, M. [2644—1813] Sorenson and A. Gordon, be opened at this time, if there is no objection.

Mr. WARREN.—No objection.

Mr. WEAVER.—No objection on behalf of the Miller Salvage Co.

The COURT.—It might be stipulated that the depositions be opened at any time.

Mr. OLSON.—No objection to all depositions being opened.

Q. Captain Macaulay, I call your attention to a document which is a part of the depositions that I have just opened, which is a part of the deposition of Captain Henry, and is marked Claimant's Exhibit, Capt. Henry "A," and I'll ask you if you recognize that document. Do you recognize that, Captain?

A. I do.

Q. What it is?

A. It is a copy of a letter addressed to the master of the steam tug "Intrepid."

Q. You are sure that this might not be the letter itself?

A. The letter itself was delivered by the mate of the tug "Intrepid" to the master.

Q. Isn't it possible that that is the letter?

A. It may be the letter.

Q. If it isn't the original letter it is an exact duplicate of that letter?      A. I think so.

(Testimony of J. R. Macaulay.)

Q. Did you read it? A. I read it.

Mr. OLSON.—I wish to read the letter into the record with the consent of counsel.

The letter reads as follows: "Cap. Henry, 'Celtic Chief,' 8/12/9,"—indicating, I judge, the date.

Mr. WARREN.—The date and place where written.

Mr. OLSON.—"Dear sir; I desire you to let go from your present position as I want to make a good berth for the man-of-war. I do not wish you to cast off altogether. I will take your line from some other part of the ship. Trusting you will oblige me, Yours truly, Capt. J. Henry. Postscript: Please let go as soon as you see the man-of-war coming out." [2645—1814]. J. H." This is the letter that was sent to the master of the "Intrepid"?

A. It was a letter somewhat similar.

Q. This is either the original or a copy of the letter.

A. It is either one or the other.

Q. And that letter was delivered to the master of the "Intrepid"? A. It was delivered.

Q. Did the master of the "Intrepid" heed the request of that letter?

A. I believe not, to the best of my knowledge.

Q. Did the "Intrepid" continue—did the "Intrepid" then keep her line aboard the "Celtic Chief" or did anything happen to it?

A. She did continue pulling.

Q. How long? A. Until they cut the line.

Q. Well, had the man-of-war arrived by the time the line was cut? A. Directly afterwards.

Q. Wasn't the cruiser, as a matter of fact, standing



(Testimony of J. R. Macaulay.)

by there waiting for the "Intrepid" to get out of the way? A. No, she was coming out of the channel.

Q. She had practically arrived on the scene?

A. She had started and was approaching the scene.

Q. Did you advise the captain of the "Celtic Chief" to send that notice to the "Intrepid?" A. I did.

Q. Did you also advise him to cut the line in view of the fact that they did not let loose?

A. I really forget.

Q. Don't you think you did?

A. I believe I did.

Q. Why did you so advise him if you did advise him?

A. Because to make room for a more powerful ship.

Q. Well, why did you want to do that?

A. To enable the ship to get her position.

Q. Why did you want the "Intrepid's" position for the "Arcona"?

A. It was the request of the commander of the "Arcona" to obtain that position. [2646—1815]

Q. Didn't he say that he required that position, insisted upon having that position?

A. The commander of the "Arcona"?

Q. Yes. A. He wanted that position.

Q. Didn't he insist on having it?

A. He didn't come to that point, of insisting, but he showed that he would wish to have that position.

Q. Now, did the "Intrepid," at any time, render any assistance or attempt to render any assistance after her line was cut? A. Yes, she did.

Q. What did she do?

A. She came and anchored to the seaward of the

(Testimony of J. R. Macaulay.)

"Celtic Chief" and hailed the ship.

Q. Did she put a line on board the "Celtic Chief" again? A. She did not.

Q. At no time, did she? A. At no time.

Q. So that the assistance that she gave was in standing by?

A. She hailed the ship and told the master of the "Celtic Chief" that she was there waiting and ready to render any other assistance.

Q. And that's all she did?

A. That's all she did.

Q. And you regard that as rendering assistance, do you?

A. Well, she was there ready to render assistance.

Q. She didn't give any more assistance.

A. She wasn't asked to give any more assistance.

Q. As a matter of fact, the captain of the "Celtic Chief" having cut the line didn't have anything more to do with her, did he?

A. Well, according to his letter he did.

Q. What letter?

A. This letter that you've just produced in here.

Q. I'm not asking you about that letter; I'm asking you whether or not the captain of the "Celtic Chief" did have anything more to do with him after that?

A. He did not use the tug after that. [2647—1816]

Q. Now, then, Captain, isn't it the fact that he was prepared, as shown by this letter, to permit the "Intrepid" to take any position and pull if the "Intrepid" had let loose?

Mr. WARREN.—Object to the question as calling for a conclusion of the witness.

(Testimony of J. R. Macaulay.)

Q. Do you know whether that was so or not? Put it that way.

Mr. WARREN.—Calling for a conclusion nevertheless.

Q. I'll ask him the—do you know whether or not Captain Henry was prepared to permit him to remain.

Mr. WARREN.—Same question.

Mr. OLSON.—I'll withdraw my question and frame it all over. Captain Macaulay, do you know anything about what Captain Henry wished the "Intrepid" to do other than what was expressed in that letter.

Mr. WARREN.—Make the same objection, your Honor.

The COURT.—I allow the question.

Q. Answer the question.

A. What is the question?

(Question read.)

Q. I don't want you to say what you knew, but I want to know whether you know or not.

A. I don't know.

Q. When the "James Makee" appeared on Tuesday night with the big anchor aboard and the "Mokoli" came up alongside of the "Celtic Chief" and threw this heaving line aboard concerning which you have testified, you stated, did you not, that the end of the heaving line hung three or four feet over the rail, but was never made fast. That's correct, is it?

A. That's correct.

Q. Did it reach the deck? Did it even come down as far as the deck, the end of the line?

(Testimony of J. R. Macaulay.)

A. It may have touched the deck.

Q. How high are the bulwarks above the deck at that point?

A. About twenty-four feet or so. Twenty-three or twenty-four feet.

Q. I mean, how high above the deck. [2648—1817]

A. There is no bulwarks; just a rail.

Q. On the main deck? A. On the poop deck.

Q. Oh, it was thrown over the poop deck, was it?

A. Over the poop deck.

Q. How high were the bulwarks, how high did they rise above the main deck on the sides?

A. Where the line was hove over?

Q. No, all around. A. Above the main deck.

Q. Didn't they rise five or six feet above the deck?

A. Oh, more than that; eleven or twelve feet above the main deck.

Q. You mean at what point?

A. At the point the line was hove over.

Q. That was at the poop, wasn't it?

A. That was on the poop on the port side, abaft the mizzen rigging.

Q. Now, then, the bulwarks sloped down, that is, they dropped down, did they not, at the break of the poop?

A. Yes, the rail begins at the break of the poop.

Q. Yes, but the bulwarks are the sides of the vessel?

A. The bulwarks of a ship are on the main deck.

Q. And I'm asking you how high above the floor of the main deck the bulwarks rose on the "Celtic Chief." Didn't they rise five or six feet above the deck? A. On the main deck?

(Testimony of J. R. Macaulay.)

Q. Yes.      A. About five feet.

Q. About five feet?      A. Yes.

Q. Wasn't it really a little bit more than five feet—  
somewhere between five and six feet?

A. It may be.

Q. Don't you remember that?

A. No, I didn't measure.

Q. You were walking—

A. Bulwarks of a vessel of the class of the "Celtic Chief," between five and six feet. A man can look over the rail.

Q. And that was true of the "Celtic Chief"?

A. That was true of the "Celtic Chief." [2649—  
1818]

Q. Now, then, Captain, that being the case, the lines of the "Arcona" and the "Mikahala" and the other Inter-Island vessels, all passing through chocks in to the "Celtic Chief" in direct line with the bulwarks, it would not be easy, would it, for a man walking around the deck there to see over the bulwarks and see those lines outside?      A. It was dark at that time.

Q. No, I mean the daytime?

A. Daytime it would be easy to see.

Q. He would have to leave his work to come to the side of the vessel in order to look over?

A. Certainly would.

Q. And if he was standing back in the middle of the vessel he couldn't see?      A. Couldn't see.

Q. And even if he was standing very near he would have to strain considerable?

A. He would have to look over the rail.

Q. He'd have to strain pretty much in order to look



(Testimony of J. R. Macaulay.)

over, wouldn't he?      A. He would.

Q. As a matter of fact, the point at which the "Arcona's" line on the starboard side of the "Celtic Chief" passed over the bulwarks was about six, seven, or eight inches above the floor of the deck?

A. More than that.

Q. How much?      A. Closer to a foot.

Q. About a foot?      A. About a foot or so.

Q. So that it was at least four feet below the top of the bulwark?      A. About that.

Q. How high is the fo'c's'le deck above the main deck?      A. About eight feet or so.

Q. About eight feet?

A. Somewhere around there.

Q. What's the width of the vessel at the break of the fo'c'sle deck?

A. I have no idea of the width of the "Celtic Chief."

Q. Well, if the beam was about forty feet, just a few inches less than forty feet, that was her [2650—1819] width amidship?

A. It would be less at the break of the fo'c's'le.

Q. It would be less?      A. It would.

Q. Don't you remember, Captain, that her sides were almost parallel and that she had a very blunt bow and it was only when the sides of the vessel approached the end of the bow that they began to turn in, or curve in?

A. Ordinarily, the extreme beam is at the *canpony* of the main hatch of any vessel.